The Church, the Councils, & Reform

The Legacy of the Fifteenth Century

Edited by Gerald Christianson, Thomas M. Izbicki, and Christopher M. Bellitto

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TO OUR TEACHERS,

Bernard McGinn

Brian Tierney

Louis B. Pascoe, S.J.

That which we have heard and known,
And what our forebears have told us,
We will not hide from their children.

—Psalm 78:3

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PREFACE

One could say that this book is a *Festschrift,* but not for a person. Rather, it is a celebration of a book—a special book on a special occasion, the fiftieth anniversary of the groundbreaking and highly influential *Foundations of the Conciliar Theory* by Brian Tierney (1955).

Thus, while the topic of our volume has exceptional relevance to current issues in church and society, it has a personal significance as well. Our authors were asked to consider the contributions of the "Tierney generation" to the significant but controversial period of the reform councils that rose to prominence when the Council of Constance healed the Great Schism (1378–1417), during which the papacy was divided among two and then three obediences, and came to a climax when the Council of Trent initiated sweeping reforms within a church divided by the Reformation. The specific issue that these authors address is how the crisis of the schism and the conciliar movement that followed caused theologians, jurists, and humanists to rethink accepted concepts of church government, and to balance the need for reform with the need to preserve order in the visible institution and reaffirm its legitimacy.

Typical of those who faced this issue were two theologians who, among others, figure prominently in these pages: Nicholas of Cusa and Aeneas Sylvius Piccolomini (Pope Pius II). Both men at first embraced the Council of Basel. Cusanus even prepared (according to Tierney) that "most mature" of all conciliar theories, the *Catholic Concordance,* in which he attempted to balance consent with hierarchy and connect both of these with wide-ranging reform. Yet both Nicholas and Aeneas abandoned Basel and had to rethink concepts of church, councils, and authority, while still preserving their dedication to renewal. The essays in this volume assess the contributions of these and other figures in this

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conflict-ridden but remarkable period, which witnessed the restoration of papal authority and the long-needed reform of institutional and devotional Christianity. This late medieval period ushered in an early modern—and then a modern—church and papacy that had to negotiate many changed contexts dealing with reform, constitutional government, councils, and ecclesiology.

Unlike many other volumes of this nature, this book does not represent the collected papers of a conference. Rather, the book and a conference were planned and grew together. Essays on the topic were invited with the intention that they and others that would not be included in the volume would be presented either as lectures or as written communications, and then sharpened by discussion among a variety of international scholars in the field. Held in Gettysburg, Pennsylvania, on October 8–10, 2004, the conference theme was apparent in its title: "Reform and Obedience: The Authority of Church, Council, and Pope from the Great Schism to the Council of Trent." The meeting was part of a series sponsored jointly by the American Cusanus Society and the International Seminar on Pre-Reformation Theology of Gettysburg Lutheran Seminary.

Founded by H. Lawrence Bond and led by Morimichi Watanabe, its president for many years, the American Cusanus Society celebrated its twenty-fifth anniversary in 2008. The purpose of its younger sibling, the International Seminar, is to bring scholars from around the world to engage in research, discussion, and publication that will make a significant contribution to our knowledge of the late Middle Ages, the Renaissance, and the coming of the Reformation, with special reference to the life and works of Nicholas of Cusa. As a means to provide context for, and more intense discussion of, issues raised by Cusanus research, the seminar began holding biennial conferences in 1986. Primary emphasis is given to working sessions in which scholars can discuss a selected text or texts, often in a fresh translation, and to providing a platform for younger scholars. In addition, the conference offers one or more general lectures by established scholars for the benefit of the community. It is hoped that these lectures and discussions will promote Protestant-Catholic, and even interreligious, dialogue.

Ten of these conferences have taken place since 1986. Scholars have come from Finland, Sweden, Canada, Germany, Italy, the Netherlands, Belgium, France, Poland, and Japan in addition to the United States. With one exception, the conferences have been held in the ambient setting of historic Gettysburg. The exception was the eighth conference, held at the Catholic University of America in 2001, to celebrate the sixth centenary of Cusanus's birth. Out of this conference came *Cusanus: The Legacy of Learned Ignorance,* edited by Peter Casarella, and published by CUA Press in 2006.

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Among the other publications related to the Gettysburg conferences and supported by the American Cusanus Society are *Nicholas of Cusa on Inter-religious Harmony,* edited by James Biechler and H. Lawrence Bond (1990); *Nicholas of Cusa in Search of God and Wisdom,* edited by Gerald Christianson and Thomas M. Izbicki (1991); *Humanity and Divinity in Renaissance and Reformation,* edited by John W. O'Malley, Thomas M. Izbicki, and Gerald Christianson (1993); *Nicholas of Cusa on Christ and the Church,* edited by Gerald Christianson and Thomas M. Izbicki (1996); F. Edward Cranz, *Nicholas of Cusa and the Renaissance,* edited by Thomas M. Izbicki and Gerald Christianson (2000); Morimichi Watanabe, *Concord and Reform,* edited by Thomas M. Izbicki and Gerald Christianson (2001); *Nicholas of Cusa and His Age: Intellect and Spirituality,* edited by Thomas M. Izbicki and Christopher M. Bellitto (2002); and *Introducing Nicholas of Cusa: A Guide to a Renaissance Man,* edited by Christopher M. Bellitto, Thomas M. Izbicki, and Gerald Christianson (2004).

We are indebted to the distinguished scholars whose contributions anchor significant parts of this volume, but insofar as it succeeds in its goal to introduce a number of younger scholars along with these veterans, the book will confirm our hope that the vein discovered by Brian Tierney and mined by the "Tierney generation" is not played out, and that the dialogue between the conciliar movement and contemporary issues in church and society will have a long and vigorous life.

The 2004 Gettysburg conference received generous grants from the Arthur Carl Piepkorn Endowment and the F. Edward Cranz Fund of the American Cusanus Society, and for these we are especially grateful to Father Richard John Neuhaus and Pastor Gretchen Cranz Fornoff, respectively. As it has from the beginning, the conference also received significant staff support from Gettysburg Lutheran Seminary. In particular our thanks go to Robin Steinke, dean; Wendy Mizenko, events coordinator; and Danielle Garber, our conference registrar and secretary.

In connection with preparations for this book, Sara Mummert of the Seminary Library frequently offered her assistance. As we have happily done for over fifteen years, we reserve a special expression of gratitude to our partner-in-publication Kim S. Breighner, who coordinated the editing and formatting of the essays and kept the three of us on track. And last, to David McGonagle of the Catholic University of America Press, without whom this project would not have been possible and who has encouraged us at every stage from planning to conference (in which he took part) to publication, three simple but deeply felt words: *salut, Danke, grazie.*

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ABBREVIATIONS

AHC	*Annuarium historiae conciliorum*
AHP	*Archivum historiae pontificiae*
CB	Johannes Haller ed., *Concilium Basliense: Studien und Quellen zur Geschichte des Concils von Basel,* 8 vols. (Basel: R. Reich, 1896–1936; Nendeln/Liechtenstein: Kraus, 1971).
CCCM	*Corpus christianorum continuatio medievalis* (Turnhout: Brepols, 1971–).
CH	*Church History*
COD	Giuseppe Alberigo, ed., *Conciliorum oecumenicorum decreta,* 3rd ed. (Bologna: Istituto per le scienze religiose, 1973).
DBI	*Dizionario biografico degli italiani,* 68 vols. (Rome: Istituto della Enciclopedia italiana, 1960–).
DRA	*Deutsche Reichstagsakten,* 22 vols. (Munich: Historische Kommission bei der Bayerischen Akademie der Wissenschaften, 1867–1973).
Du Pin	Louis Ellies Du Pin, *Joannis Gersonii doctoris theologi et cancellarii parisiensis opera omnia,* 5 vols. (Antwerp: Sumptibus societatis, 1706; Hildesheim: Olms, 1987).
Finke	Heinrich Finke, *Acta concilii Constanciensis,* 4 vols. (Münster: Regensbergsche Buchhandlung, 1896–1928).
Hardt	Hermann von der Hardt, *Magnum oecumenicum Constantiense concilium de universali ecclesiæ reformatione, unione, et fide,* 6 vols. (Frankfurt: In officina Christiani Genschius, 1697).

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Mansi Giovanni Domenico Mansi, *Sacrorum conciliorum nova et amplissima collectio,* 54 vols. (Paris: H. Welter, 1901–27; Graz: Akademische Druck- u. Verlagsanstalt, 1960).

MCG František Palacký, *Monumenta conciliorum generalium seculi decimi quinti,* 4 vols. in 8 (Vienna: Typis C.R. Officinae typographicae aulae et status, 1857–1935).

MFCG *Mitteilungen und Forschungsbeiträge des Cusanus-Gesellschaft*

NC *Nicolai de Cusa opera omnia iussu et auctoritate Academiae Litterarum Heidelbergensis* (Hamburg: Meiner, 1932–) = h. Works are cited by book, chapter, and section number; h by volume and page. For example, *De coniecturis* I, 1, #5 (h III, 7–8) refers to *De coniecturis,* book 1, chapter 1, section 5 (in the Heidelberg edition, volume 3, pages 7–8)

OC Jean Gerson, *Oeuvres complètes,* ed. Palémon Glorieux, 10 vols. (Paris: Desclée, 1960–73).

PG Jacques-Paul Migne, *Patrologiae cursus completus . . . Series Graeca*, 161 vols. (Paris: J.-P. Migne, 1857–66) [commonly called *Patrologia Graeca*].

RQ *Renaissance Quarterly*

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Introduction

The Conciliar Tradition and Ecumenical Dialogue

GERALD CHRISTIANSON

A recent and intriguing proposal for the advance of ecumenical relations in the twenty-first century suggests that worldwide communions should embark on a comparative study of their ways of decision making. In church history, the term *reception* is usually applied to acceptance by the faithful of dogmatic or disciplinary decisions of church councils. The stress in the new proposal, however, is not so much on the reception of the modern dialogues among the various partners, Catholic, Orthodox, and Protestant, but on the procedures and structures by which they govern themselves. The hope is that a comprehensive study will lead to greater mutual recognition.[1]

To help guarantee success in this venture, and to begin where some have already tilled the soil, the essays in this volume—taken in sum—suggest a preliminary, but fundamental, task: begin with our shared, but too little known, history of ecclesiastical decision making in the fifteenth-century conciliar movement. Such conversation would reveal several facets of a common origin: the influence of theology and histori-

1. Lukas Vischer, "World Communions, the World Council of Churches and the Ecumenical Movement," in *Synod and Synodality: Theology, History, Canon Law, and Ecumenism in New Contact* (International Colloquium Bruges 2003), ed. Alberto Melloni and Silvia Scatena (Münster: Lit Verlag, 2005), 489–517. Hans Margull, introduction to *The Councils of the Church: History and Analysis,* ed. Margull, trans. Walter Bense (Philadelphia: Fortress, 1966), 81, observes that the process of reception is a circle: reception by the church catholic—confession of faith—definition of what is catholic (or: decision—confession—decision [reception]). The question, he notes, is always open; reception is a continuing process.

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cal circumstance on the development of conciliar theory; the influence of conciliar theory on secular constitutional thought (and vice versa), reform, and ecclesial structures of collegiality; and above all, a renewed appreciation for a collegiality that can show itself not only in highly publicized gatherings of bishops, but more frequently and more commonly in the practice of "synodality." Deriving its basic meaning from "gathering" or "assembling," as in *synagogue* or *synaxis,* synodality refers to a system of church assemblies that represents a body of the faithful, from parish councils to regional meetings and national assemblies.

While the terms *synod* or *synodality* may be unfamiliar, they relate to an evangelical principle deeply imbedded in New Testament ecclesiology. The assembly at Jerusalem in Acts 15 with its critical decision about the circumcision of Gentiles may or may not be a demonstrable historical event, but later generations took it as a model. They gave this council and the less formal gatherings in the Pauline Epistles concrete expression in the great assemblies of the early church, especially the first four ecumenical councils (Nicea I, 325; Constantinople I, 381; Ephesus, 431; and Chalcedon, 451), to which Catholics, Orthodox, and mainline Protestants still adhere.[2]

The desire to investigate the roots of synodal ecclesiology, and especially its manifestation in the medieval and early modern conciliar theory, is one contribution of those scholars, young and old, who have been drawn into the spell of Vatican II (1962–65),[3] and have remained inquisitive about its connections with conciliarism and conciliarism's connection to modern constitutionalism.[4] Many of these scholars would not object if they were called "the Tierney generation." Although the study of the conciliar movement and conciliar theory was far from new in 1955, one might say that it has come to maturity in the past half century, and that this coming-to-maturity began just over fifty years ago when a young scholar named Brian Tierney published his first book, entitled *Foundations of the Conciliar Theory.*[5]

Tierney has observed that the work "had an odd fate."[6] One is reminded of

2. A general and readable introduction to the councils is Christopher M. Bellitto, *General Councils: A History of the Twenty-one Church Councils from Nicaea to Vatican II* (New York: Paulist, 2002).

3. Giuseppe Alberigo, *A Brief History of Vatican II,* trans. Matthew Sherry (Maryknoll, N.Y.: Orbis, 2006); *History of Vatican II,* ed. Giuseppe Alberigo; English version ed. Joseph Komonchak, 5 vols. (Maryknoll, N.Y.: Orbis, 1995–2006).

4. A now-standard essay in the field, especially helpful on the issues of conciliarism, ecclesiology, and reform, is Scott Hendrix, "In Quest of the *Vera ecclesia:* The Crises of Late Medieval Ecclesiology," *Viator: Medieval and Renaissance Studies* 7 (1976): 347–78.

5. Brian Tierney, *Foundations of the Conciliar Theory: The Contribution of the Medieval Canonists from Gratian to the Great Schism* (Cambridge: Cambridge University Press, 1955; repr., 1968; rev. ed., Leiden: Brill, 1998). All subsequent citations are to the 1998 edition.

6. Introduction to ibid., ix.

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how Jonathan Edwards, reading from a manuscript and peering over thick spectacles, discovered the Great Awakening breaking out in front of his pulpit. Originating as a Ph.D. thesis at Cambridge, *Foundations* was written shortly after the Second World War, a conflagration that provided motivation for several well-known scholars who turned to the pre-Reformation period with similar questions, including—in addition to Tierney—Paul Oscar Kristeller, F. Edward Cranz, and Charles Trinkaus.[7]

Published in book form as a scholarly monograph, *Foundations* held few pretensions for reshaping church polity—the structures and procedures by which an ecclesiastical body governs itself. But with the unexpected calling of a new council by Pope John XXIII, Tierney became something of an international star. Suddenly, the late medieval tradition of reform councils and collegiality seemed to leap from the pages of his academic treatise.[8]

Looking back after half a century, the discovery of *Foundations* seems only natural. Tierney had demonstrated that the conciliar movement, far from an aberration or an extremist deviation from genuine catholic ecclesiology, was the culmination of ideas that were rooted deep in the church's own past and embedded in a solid tradition of scripture, doctrine, and canon law.

Now, it seemed, the efforts among reformers at Vatican II to achieve aggiornamento (updating) and collegiality among bishops made the claims for synodal authority put forward by the late medieval reform councils seem more relevant than in previous times, when they were often dismissed or forgotten.[9] In particular, the Council of Constance (1414–18), a major medieval assembly in which conciliar theory was put to the test in the contest among three rival popes, appeared to share a similar outlook on the need to establish reform, regular assemblies, and a collegial, constitutional structure that would temper the centralized power of the Roman Curia.[10]

A complete history of the conciliar movement and its impact on modern

7. On Kristeller, see now *Kristeller Reconsidered: Essays on His Life and Scholarship,* ed. John Monfasani (New York: Italica, 2006); and the earlier *Philosophy and Humanism: Renaissance Essays in Honor of Paul Oskar Kristeller,* ed. Edward P. Mahoney (New York: Columbia University Press, 1976). On Cranz, see the preface to F. Edward Cranz, *Nicholas of Cusa and the Renaissance,* ed. Thomas M. Izbicki and Gerald Christianson (Aldershot, U.K.: Ashgate, 2000), xiii–xvi. On Trinkaus, see John W. O'Malley, introduction to *Humanity and Divinity in Renaissance and Reformation: Essays in Honor of Charles Trinkaus,* ed. John W. O'Malley, Thomas M. Izbicki, and Gerald Christianson (Leiden: Brill, 1993).

8. Tierney, *Foundations,* x.

9. For a general history of reform, including its connection to councils, see Christopher M. Bellitto, *Renewing Christianity: A History of Church Reform from Day One to Vatican II* (New York: Paulist, 2001). See also *Reforming the Church before Modernity: Patterns, Problems, and Approaches,* ed. Christopher M. Bellitto and Louis Hamilton (Aldershot, U.K.: Ashgate, 2005).

10. Tierney, *Foundations,* xxix.

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constitutional and ecclesial theory and practice has yet to be written.[11] Nevertheless, in order to put its theological foundations into context, a brief sketch of the sometimes tumultuous story of the movement may prove helpful.

The Conciliar Movement

The Council of Constance, the focus of so much attention at Vatican II, had been summoned to solve what many consider the greatest constitutional crisis in the history of the church. By this reasoning, the Reformation, with the possible exception of the Gnostic threat in the first two centuries, was its greatest theological crisis. The church had known schisms before, most traumatically the division with the Eastern Church in 1054, but none in the West had lasted so long, nor were contested so bitterly as that known as the Great Schism (1378–1417), involving the competing elections of two and then three popes.[12]

The problem arose when, after many years at Avignon (an independent city, but with strong ties to France) and a succession of French popes, most of the Curia returned to Rome. There, in April 1378, the cardinals elected an Italian who was not one of their number—the archbishop of Bari, who assumed the title of pope as Urban VI. Shortly thereafter, a majority of the electors fled Rome and declared the election invalid because it was done under duress and hindered by the threats of a Roman mob—not to mention that Urban seemed exceedingly unstable. These cardinals elected a second pope, Robert of Geneva, who took the name Clement VII and who eventually settled back in Avignon.[13]

11. See, however, the recent work by Paul Avis, *Beyond the Reformation? Authority, Primacy and Unity in the Conciliar Tradition* (London: T & T. Clarke, 2006), xiv–xv, which contains a history set within an Anglican interpretation.

12. Works from which material for this section is drawn include especially Francis Oakley, *The Western Church in the Later Middle Ages* (Ithaca: Cornell University Press, 1979), 55–70; and Carl Andresen, "History of the Medieval Councils in the West," in Margull, *The Councils of the Church: History and Analysis,* 82–240. See also C. M. D. Crowder, *Unity, Heresy, and Reform, 1378–1460: The Conciliar Response to the Great Schism* (New York: St. Martin's, 1977), which contains helpful documents; Antony Black, *Council and Commune: The Conciliar Movement and the Fifteenth-Century Heritage* (London: Burns & Oates, 1979); and Matthew Spinka, "Conciliarism as Ecclesiastical Reform," in Spinka, *Advocates of Reform,* Library of Christian Classics 14 (London: SCM, 1955), 91–105. Also recommended are Christopher M. Bellitto, "Il conciliarismo," in *Il Cristianesimo Grande Atlante,* ed. Giuseppe Alberigo et al., vol. 3, *Le dottrine* (Turin: UTET, 2006), 1092–1101; Angel Antón, *El misterio de la Iglesia: Evolución historica de la ideas eclesiológicas,* 2 vols. (Madrid: Editorial Católica, 1986–87), 1:183–405; and H. J. Sieben, *Die Konzilsidee des lateinischen Mittelalters (847–1375)* (Paderborn: Schöningh, 1984). A good old standard, full of information, but some of it now dated, is A. C. Flick, *The Decline of the Medieval Church,* 2 vols. (London: K. Paul, Trench, Trubner, 1930).

13. Urban VI tells his own version of the story in *Factum urbani,* translated in Walter Ullmann, *The Origins of the Great Schism: A Study in Fourteenth-Century Ecclesiastical History* (London: Burns, Oates, & Washbourne, 1948; repr., Hamden, Conn.: Archon 1967), 11–25. In general, see Eamon Duffy, *Saints and Sinners: A History of the Popes,* 3rd ed. (New Haven: Yale University Press, 2006).

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The endurance of this scandal was assured when, rather than capitulate, Urban forged ahead and named a number of new cardinals. When he died in 1389, these same cardinals, rather than terminate the scandal by participating jointly in a new election with their counterparts in Avignon, went immediately into conclave and elected a successor, Boniface IX.

Power politics also helped to extend the schism. Both papal "obediences" could count on support from the rising territorial states of Europe. Italy, the empire, England, and Sweden supported Urban VI and the Roman line. France, Aragon, and Scotland rallied around Clement VII and the Avignon line. These choices were often influenced by a nation's rivalry with an opponent in the other camp, most notably England and France, the two major powers involved in the conflict known as the Hundred Years War (1337–1453).

Yet this was far more than a contest between papal parties or territorial states. The schism divided religious orders and universities, and even split dioceses, as well as territories. The resultant fiscal crisis brought about by maintaining two separate Curias and two defense budgets prompted extreme measures to raise revenues—for example, the sale of indulgences—and extraordinary taxes, such as the papal annates.[14] While born of necessity, these practices exacerbated the need for reform. In addition, and most disturbing, one's own salvation seemed to hang in the balance between doubt and certainty. If there were no true pope, then the bishops whom he consecrated, together with the priests and the sacraments, were of questionable authenticity. All these concerns lasted for an entire generation.

Several proposals for ending the schism were put forward between the double election of 1378 and 1409, the year of the Council of Pisa. A "way of force" (*via facti*) was tried almost immediately but unsuccessfully by Urban himself, after which it was said that he had several of his cardinals tortured and some executed. A "way of investigation" (*via quaestionis*) was undertaken a number of times during the early years, but failed because no group or commission could force a binding decision on the contestants.

An attempt at a "way of submission" (*via cessionis*), in which one or both of the popes would resign, ended with the expected results. In 1407 the Avignon pope Benedict XIII (Pedro da Luna), the last of the original College of Cardinals who had elected Urban, and his adversary, the Roman pope Gregory XII, agreed to meet at Savona, about halfway between Rome and Avignon. Both started out on

14. The Council of Basel attempted to repeal this unpopular tax, theoretically an amount equal to the first year's income from a benefice granted by the pope: Gerald Christianson, "Annates and Reform at the Council of Basel," in *Reform and Renewal in the Middle Ages and the Renaissance,* ed. Thomas M. Izbicki and Christopher M. Bellitto (Leiden: Brill, 2000), 193–207.

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the journey, but—in part fearing threats on their lives—stopped short of the goal about a day's journey apart. The summit was never held.

The spectacle of Savona had one positive result. It now became abundantly clear that the rivals would not take action against themselves. This brought to the forefront yet another proposal, "the way of a council" (*via concilii*). The idea was as old as the schism itself, but twenty-one years had passed and, all others failing, it became the last alternative still standing. The French monarchy, as a tentative step in this direction, issued a formal "withdrawal of obedience" from the Avignon pope, but returned this obedience with the understanding that he would resign, and that a general council would be held to enact a reunion. The faculty at the University of Paris often led the way in these negotiations by providing a coherent theological basis for action, and it would retain this position well beyond the end of the schism.

Emboldened by these ideas, and frustrated by the Savona affair, cardinals from both parties, without approval or support from either pope, issued a call for a council to meet at Pisa in March 1409. The two contenders were summoned, condemned in absentia as schismatics, and deposed. A new pope, Peter of Crete, was elected as Alexander V, but he died before he could secure the necessary political support. As a result the church now had three popes, three Colleges of Cardinals, and three "obediences": Pisan, Roman, and Avignonese.

Alexander's successor, John XXIII, had a reputation as a military captain and administrator, but neither quality enabled him to recover Italy or unseat the Roman pope Gregory XII. Eventually, John had little choice but to submit to the demand of Sigismund, king of the Romans, that he call a council at Constance. Sigismund had set his sights on becoming emperor of the Holy Roman Empire, but since his chances for election and coronation were limited as long as a multiplicity of popes contested the papacy, he devoted his energies to the causes of council and reunion.

The Council of Constance (1414–18) was a pan-European assembly of unprecedented proportions.[15] It was the best-attended and most representative assembly of the late medieval church: twenty-nine cardinals, three hundred bishops and prelates, numerous representatives from theology and law, and a large number of delegations from secular powers. They did not want to go home disappointed, as many had at Pisa in 1409, so they set three specific goals for the as-

15. The most comprehensive treatment to date is Walter Brandmüller, *Das Konzil von Konstanz (1414–1418)*, 2 vols. (Paderborn: Schöningh, 1991). See the helpful review of previous works in Remigius Bäumer, "Die Erforschung des Konstanzer Konzils," in *Das Konstanzer Konzil,* ed. Bäumer (Darmstadt: Wissenschaftliche Buchgessellschaft, 1977), 3–34. For a survey of the literature on all the councils of the fifteenth and sixteenth centuries, see the essay by Nelson Minnich in this volume.

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sembly: heal the schism (now in its third decade), extirpate heresy, and institute reform. Things went badly, however, just as the goal of reunion seemed within reach. On the night of March 20, 1415, John XXIII fled the council, expecting that it would collapse without his presence. The assembly now faced a dilemma: could it go on without its head; and if so, by what authority?

In response, and with a stalwart group of theologians, canonists, and cardinals leading the way, Constance adopted its most famous decree, *Haec sancta* (*This Holy Synod*) on April 6, 1415. It declared that a council, assembled in the Holy Spirit and representing the church catholic, "derived its power immediately from Christ, and that all persons of every rank and position, including the pope himself, are bound to obey." With this to guide them, the members went on to try, condemn, and depose John XXIII. The Roman pope Gregory XII, as political support for his line crumbled, agreed to resign, provided that he could issue his own belated call to the council. This left Benedict XIII of the Avignon line. Isolated with a handful of supporters in his castle in Aragon, the old pope refused to resign, despite the pleas of Sigismund, who undertook a long journey to negotiate with him. By 1417, when an exasperated council finally withdrew its support, the way was clear to choose Odo Colonna as Martin V, the first generally accepted pope in nearly forty years.

If the council's success in healing the schism was a great achievement, its record on heresy was more mixed. Its response to the crisis in Bohemia, for instance, was to try, convict, and burn John Hus at the stake. Similarly, the efforts to reform the church were delayed when the fathers, after a long and sometimes bitter dispute, determined that they should proceed to elect a new pope first and allow him to take the lead.[16]

Nevertheless, the fathers did agree that the calling of future councils should not be left to the discretion of the popes alone. Before Constance closed, it enacted what became its second most famous decree, *Frequens,* on October 9, 1417. The decree provided that councils should meet on a frequent basis: the first in five years, then again in seven, and every ten years after that.

The interpretation of these two decrees, the subject of lively debate since the close of Constance, took on special significance with the calling of Vatican II. In essence, the issue is whether the decrees were intended only for the emergency of the schism or were designed to give permanent status to a council's parliamentary superiority over Rome.[17] For our purposes, a perceptive comment by Tierney may

16. Phillip H. Stump, *Reforms of the Council of Constance (1414–1418)* (Leiden: Brill, 1994).

17. A thoroughgoing review and critique of the major positions can be found in Francis Oakley, *Council over Pope? Towards a Provisional Ecclesiology* (New York: Herder & Herder, 1969). For the mixed reception of Constance

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suffice. The members of the council who enacted *Haec sancta* and *Frequens* were all pro-papal. Their intention was not to abolish the papacy, but to restore it by electing a single pope.[18]

In keeping with *Frequens,* Martin V called a council to meet at Pavia in 1423. It soon moved to Siena, where the papal legates closed it—abruptly, some thought, and before it could enact any significant reform.[19] A bit more than the seven years later, and on the eve of his death, Martin next summoned a council to assemble at Basel (1431–49), north of the Alps.[20]

This time the fathers were determined to continue the Constance program of unity, heresy, and reform. But the question of unity took an unexpected turn when Martin's successor, Eugenius IV, attempted to transfer or even close the council.[21] When eventually the pope was pressured to admit Basel's legitimacy, he immediately ordered that a number of presidents sympathetic to his policies join the already-seated president, the reform-minded Cardinal Giuliano Cesarini, a canonist who represented Cardinal Zabarella's tradition of corporatism and conciliar theory.[22] Whereas Constance had rallied against the flight of one pope and the resistance of another, Basel had a special challenge—it found itself in conflict with a single pope. Whereas Constance had burned Hus, setting off an entire movement of opposition in Bohemia, Basel was able to bring Hus's followers to dialogue. Whereas at Constance the intervention of a papal election hindered major reform, at Basel the hindrances were papal opposition and the prospect of a union council between the Greek and Latin churches.

In 1437 Eugenius issued another transfer of Basel and summoned an assembly to meet at Ferrara to work out unification with the Greeks. Still separated from the West, the remnants of the Byzantine Empire were now engaged in a desperate defense of their capital, Constantinople, against the Ottoman Turks and

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in particular, see Thomas M. Izbicki, "Papalist Reaction to the Council of Constance: Juan de Torquemada to the Present," CH 55 (1986): 7–20; and Thomas Morrissey, "After Six Hundred Years: The Great Schism, Conciliarism, and Constance," *Theological Studies* 40 (1979): 495–509.

18. Tierney, *Foundations,* xxiii.

19. Walter Brandmüller, *Das Konzil von Pavia-Siena, 1423–24,* 2 vols. (Münster: Aschendorff, 1964, 1974); and *Quellen zur Kirchenreform im Zeitalter der grossen Konzilien des 15. Jahrhunderts,* vol. 2, *Die Konzilien von Pavia/Siena (1423/24), Basel (1431–1449) und Ferrara/Florenz (1438–1445),* ed. and trans. Jürgen Miethke and Lorenz Weinrich (Darmstadt: Wissenschaftliche Buchgessellschaft, 2002).

20. Johannes Helmrath, *Das Basler Konzil, 1431–1449* (Cologne: Böhlau, 1987); Joachim Stieber, *Pope Eugenius IV, the Council of Basel, and the Secular and Ecclesiastical Authorities in the Empire* (Leiden: Brill, 1978).

21. Joseph Gill, *Eugenius IV: Pope of Christian Union* (Westminster, Md.: Newman, 1961), 39–44.

22. Gerald Christianson, "Nicholas of Cusa and the Presidency Debate at the Council of Basel, 1434," in *Nicholas of Cusa on Christ and the Church,* ed. Gerald Christianson and Thomas M. Izbicki (Leiden: Brill, 1996), 87–103.

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were in need of aid.[23] Wearied by the pope's opposition, which had dogged them at every turn, a significant number of fathers refused to comply with the papal order and remained at Basel. There they proceeded to depose him and elect another, the nobleman-turned-hermit, Amadeus VIII of Savoy, who assumed the name of Felix V.

Schism had broken out again, but in fairness to Basel, one may be permitted two observations. On the one hand, the fathers had the unenviable task of putting conciliar theory into practice when there was but a single, undoubted pope and not the competing rivals of the Great Schism. On the other hand, this assembly might have become the great experiment in conciliar history—a restored papacy and a legitimate council seeking common ground in their search for collegiality and continual renewal. But this was not to be. Instead, without the pope's cooperation, the fathers dug in to defend *Haec sancta* and their responsibility both to reform the church and to maintain the rightful place of synodal assemblies that the Constance decree had given them.[24]

Meanwhile, Latins and Greeks in Florence signed a union agreement in July 1439, but the dates of the three phases of this council—Ferrara (1438–39), Florence (1439–42), and especially the further extension at Rome (1442–47), long after the Greeks had returned home—suggest that Eugenius was interested as much in defeating the remnant at Basel as in promoting union with the East.[25]

Despite the tendency in these actions toward a monarchical conception of the papacy, Hubert Jedin maintained that positions were not set in stone, but that "opinion was still fluid." Consequently, a full-scale defense of the papacy had to wait until after Basel had moved to Lausanne and finally closed.[26] For this reason Jedin considers the period from Basel to the Fifth Lateran Council (1512–17) as "the most important, perhaps, in the history of conciliar thought" because, in its attempt to overcome its rival, the so-called little assembly (*conciliabulum*) of Pisa (1511–12), and a conciliarist tendency that refused to die in France, this period helped to prepare the way for the Council of Trent after lengthy negotiations and many hesitations (1545–48, 1551–52, 1562–63).[27]

23. Joseph Gill, *The Council of Florence* (Cambridge: Cambridge University Press, 1959); *Christian Unity: The Council of Ferrara-Florence, 1438/39–1989,* ed. Giuseppe Alberigo (Leuven: Peeters, 1991).

24. Tierney, *Foundations,* xxvii: "And the next hundred years showed that the Pope alone could not reform the Church without the support of a Council. The eventual outcome . . . was 'a new and more disastrous schism.'"

25. Andresen, "History of the Medieval Councils in the West," 227.

26. Hubert Jedin, *A History of the Council of Trent,* trans. Ernest Graf, 2 vols. (London: Nelson, 1957–61), 1:26–27.

27. Ibid., 1:32.

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Nevertheless, the papal defense against conciliarism was already well under way during the Council of Basel, with advocates such as John of Torquemada, one of Eugenius's most articulate spokesmen.[28] Furthermore, there was Nicholas of Cusa,[29] once the champion of Basel, who later repudiated the council and eventually became a close associate of Pope Pius II (1405–64), the same pope who condemned all appeals to a council over a pope in the bull *Execrabilis* of January 1460.

As the young Aeneas Sylvius Piccolomini, Pius too had championed Basel and then repudiated it, but his critique of the council, while not as theologically or canonically profound as those of Torquemada and Cusanus, may have had the greater effect because his revised histories of the Basel assembly have given it, among those who have accepted Aeneas's later writings at face value, a reputation for rowdiness and radical action that it has had considerable difficulty in overcoming. Yet, while Pius intended to deal the conciliar movement a deathblow in *Execrabilis,* he soon realized that the life and growth of conciliarism was not at an end.[30]

Conciliar Theology

A great political theorist of the early twentieth century, John Neville Figgis, declared that the Constance decree *Haec sancta,* concerning a council's superiority over a pope, was "the most revolutionary official document in the history of the world."[31] What at first may appear to be poetic license turns out to have more than a kernel of truth. Figgis taught at Cambridge, but he was also an Anglican clergyman with a vision. Deeply concerned that modern industrial societies achieve a diverse communal existence, he strove to articulate a conception of communities in which various religions and ideologies could live together in peace and har-

28. Thomas M. Izbicki, *Protector of the Faith: Cardinal Johannes de Turrecremata and the Defense of the Institutional Church* (Washington, D.C.: The Catholic University of America Press, 1981); *Three Tracts on Empire: Engelbert of Admont, Aeneas Silvius Piccolomini, and Juan de Torquemada,* trans. Thomas M. Izbicki and Cary Nederman (Bristol: Thoemmes, 2000).

29. *Introducing Nicholas of Cusa: A Guide to a Renaissance Man,* ed. Christopher M. Bellitto, Thomas M. Izbicki, and Gerald Christianson (New York: Paulist, 2004). Peter McDermott, "Nicholas of Cusa: Continuity and Conciliation at the Council of Basel," CH 67 (1998): 254–73, offers a summary and critique of various interpretations of Cusanus's conciliar affiliations.

30. For the checkered career of this gifted and influential pope, see "Introduction: From Private Person to Posterity," in *Reject Aeneas, Accept Pius: Selected Letters of Aeneas Sylvius Piccolomini (Pope Pius II),* intro. and trans. Thomas M. Izbicki, Gerald Christianson, and Philip Krey (Washington, D.C.: The Catholic University of America Press, 2006), 3–57.

31. John Neville Figgis, *Political Thought from Gerson to Grotius, 1414–1625: Seven Studies* (New York: Harper, 1960), 41.

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mony.[32] With this ideal in mind, Figgis drew conclusions first about the origins of the revolutionary *Haec sancta,* and then about its later influence.

Today, after years of intense research and lively debate, and with thanks especially to Tierney and Francis Oakley, we have learned that in the first instance Figgis missed the mark, but in the second, on its later influence, he was surprisingly insightful.[33] Figgis thought that what we call "conciliar theory" was simply the extension and application of parliamentary governments that were springing up around Europe to the realm of the church. But when Tierney began to investigate the origins of conciliarism, he found a better explanation in a place that seems now to have been hidden in plain sight.[34]

Tierney's discovery arose from the tedious but rewarding task of mining a largely forgotten heritage of commentaries by medieval canonists. These were lawyers trained in the law faculties of the emerging European universities, where the major legal text was known as the *Decretum,* written about 1140 by Gratian, a law professor at the University of Bologna.[35] Gratian had gathered texts from a number of sources, including scripture, the church fathers, councils, and papal decrees, and then added his own comments. He had assembled these disparate texts in such a manner that students could improve their thinking by attempting to resolve the apparent contradictions within them—a method captured in the title of the work, *Concordance of Discordant Canons* (*Concordantia discordantium canonum*).

The same challenge confronted those later canonists known as decretists, who dealt with the *Decretum,* and who sought to develop a comprehensive catholic ecclesiology out of its contents. The major problem was how to understand the many texts that seemed to favor assigning fullness of power (*plenitudo potetatis*) to

32. David Nicholls, *The Pluralist State: The Political Ideas of J. N. Figgis and His Contemporaries,* 2nd ed. (New York: St. Martin's, 1994). See also Matthew Grimley, *Citizenship, Community, and the Church of England: Liberal Anglican Theories of the State between the Wars* (Oxford: Clarendon, 2004), which situates Figgis, as well as William Temple, Charles Gore, and others, in a search for a national "community" that combined theology with a social vision.

33. Brian Tierney, *Religion, Law, and the Growth of Constitutional Thought, 1150–1650* (Cambridge: Cambridge University Press, 1982); and the numerous works of Francis Oakley, many collected in *Natural Law, Conciliarism, and Consent in the Late Middle Ages: Studies in Ecclesiastical and Intellectual History* (London: Valorum, 1984), and summarized in *The Conciliarist Tradition: Constitutionalism in the Catholic Church, 1300–1870* (Oxford: Oxford University Press, 2003). See also the collected essays of Antony Black, *Church, State, and Community: Historical and Comparative Perspectives* (Aldershot, U.K.: Ashgate, 2003).

34. Francis Oakley, "*Verius est Licet Difficilius:* Tierney's *Foundations of the Conciliar Theory* after Forty Years," in Christianson and Izbicki, *Nicholas of Cusa on Christ and the Church,* 15–34. The *American Cusanus Society Newsletter* 11/2 (1994): 7–9, conveniently lists the major reviews of *Foundations* with excerpts.

35. Stephan Kuttner, *Gratian and the School of Law, 1149–1234,* 2nd ed., ed. Peter Landau (Aldershot, U.K.: Ashgate, 2004).

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a pope who, according to one "distinction" in the *Decretum,* was to be "judged by no one."

Yet other texts described popes who had fallen into heresy, councils that were to be revered like the four gospels, and the principle that while a pope can be judged by no one, there was one exception: "unless apprehended in heresy" (Distinction 4, chapter 6). In addition to this "heresy clause," canonists also appealed to scripture, especially the Matthean text, "where two or three are gathered in my name," and stressed the distinction between the Roman Church over which the pope ruled and the universal church (*universitas fidelium*) to which alone Christ had given a promise of indefectibility. And finally, they emphasized the principle that "that which touches all must be approved by all" (*quod omnes tangit*).

Still more was added to the tradition by those who commented on the decretals, papal decrees that were published after Gratian's *Decretum.* Despite their generally high papalism, these decretalists contributed a notion of corporations that they modeled on the everyday practice of cathedral chapters, universities, guilds, town governments, and commercial enterprises. In these corporations the whole body is the seat of authority, while a rector, president, or dean "represents" the whole and holds authority in trust for them. The emphasis here is on "personification," in which the head embodies the group—more like a trusteeship than a modern concept of representation.[36] Nevertheless, these corporations provided vivid, palpable illustrations for the argument that a council, representing the whole body of the faithful (*congregatio fidelium*), could act on the church's behalf to defend itself against an erring pontiff.

A final insight helped to coalesce the heresy clause of the decretists and the corporation theory of the decretalists: the theological doctrine of the mystical body of Christ. This was drawn from St. Paul, as was the corollary, especially in 2 Corinthians 10:8 and 13:10, that leadership is given to this body for edification and not the destruction of its well-being (*status ecclesiae*).

As a result of these venerable scholarly ruminations, the questions that the Paris masters and other conciliarists would face during the Great Schism in the fourteenth and fifteenth centuries were not new: who held "the fullness of power" in the church, and by what authority; how is authority to be distributed between ruler and community; does a community have any recourse to an irresponsible ruler? Even if the law permitted deposition of an erring pope, what kind of adjudicator could bring it about?

36. Arthur P. Monahan, *From Personal Duties towards Personal Rights: Late Medieval and Early Modern Political Thought, 1300–1600* (Montreal: McGill-Queen's University Press, 1994), 84, 88.

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But if the questions were not new, the crisis was. These largely theoretical strands of thought came dramatically into play when the Great Schism dawned in 1378, especially because the well-being of the church was threatened not by heretics or heathen forces, but by a divided papacy. There was a difficulty, however. Could the heresy clause apply to schism?

The first to give full expression to the way of a council (*via concilii*) as a legitimate—and, in fact, the only feasible—solution to the crisis were two German masters at Paris.[37] Conrad of Gelnhausen, a canonist, wrote a *Brief Letter* in 1379, only a year after the schism began, and a longer *Epistle of Concord* in 1380. This was followed in 1381 by Henry of Langenstein's *Letter on Behalf of a Council of Peace.*[38] That Henry was a theologian who borrowed canonistic material from his colleague shows that the two disciplines could work in tandem, the one benefiting the other, and that a rivalry for leadership of the conciliar movement between the two professions should not be overplayed.

Although less well known than successors such as Gerson or Cusanus, who put theory into practice at the Councils of Constance and Basel, Conrad of Gelnhausen's *Epistle of Concord* is remarkable not only for its comprehensive treatment of themes that would appear in these later masters, but for its strikingly early date.[39] Conrad prefaces his argument with a survey of the evils in Christendom brought about by the schism, and then gets down to business. The apostles had turned to a council when the need arose, and now a new and greater scandal called for the same remedy. Furthermore, since no one was unaffected by the schism, the principle "that which touches all, must be approved by all" applies.

In solidifying his argument, Conrad made two innovative contributions. First, he invoked an Aristotelian principle that would have a profound influence on later conciliarists like Gerson and Pierre d'Ailly. Known as *epikeia* and roughly translated as "equity," it holds that interpreters must always determine the intentions of the original law so that it is not enforced to the detriment of its original purpose.

A second contribution of the *Epistle* was the link it forged between heresy and

37. Oakley, *Council over Pope?* 56.

38. English translation in Spinka, *Advocates of Reform,* 106–39; and in James Kerr Cameron, "Conciliarism in Theory and Practice, 1378–1418, with a Translation of Selected Documents" (Ph.D. diss., Hartford Seminary Foundation, 1953), pt. 2, pp. 1–92. Cameron's translations, from which Spinka's are drawn, include Gerson, *A Treatise on Ecclesiastical Power and the Origin of Rights and Laws,* and Dietrich of Niem, *Ways of Uniting and Reforming the Church,* in addition to Langenstein's *Letter,* d'Ailly's *A Tractate on the Reformation of the Church,* and Gerson's *Treatise on the Unity of the Church.*

39. Conrad of Gelnhausen, *Epistola concordiae,* in Franz Bliemetzrieder, *Literarische Polemik zu Beginn des grossen abendländischen Schismas* (Vienna: Tempsky, 1909), 1:111–40.

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schism, thus ensuring that the canons that applied to the former could also apply to the latter. In contrast to these striking contributions, Conrad's cautious recommendation of a council, which he envisioned only for the immediate emergency, falls short of the later demand for regular assemblies in the Constance decree *Frequens.*

Nevertheless, Conrad's basic principles, with some variation, continue to appear in the later canonists and theologians whose texts have been given greater credit for their influence on conciliar ecclesiology and political theory.[40] Among these theologians and canonists who built on Conrad's foundations six stand out.[41]

Pierre d'Ailly, onetime chancellor of the University of Paris, became a cardinal and took a leading role in the Council of Constance and the formulation of *Haec sancta.*[42] The theologian Jean Gerson, d'Ailly's successor as chancellor of the University of Paris in 1394, put the principle of equity to good use in his treatise *On the Unity of the Church,*[43] written to argue the case for the legitimacy of the summons to Pisa (1409) issued by cardinals from the two rival obediences. He later delivered a crucial sermon during the dark days created by the flight of Pope John XXIII from Constance that is credited with keeping the council on track.[44] The third in a triumvirate of important leaders at Constance was the Italian cardinal Francis Zabarella, perhaps the foremost canonist of his day, whose *Tract on the Schism* (*Tractatus de schismate*) is a classic summary of the canonistic foundations for conciliarism built around corporation theory.[45]

Although not as well known as his predecessors at Constance, the Spanish theologian John of Segovia wrote a monumental history of the Council of Basel, an invaluable resource to historians, but also issued several tracts on issues

40. Cameron, in the appendix to "Conciliarism in Theory and Practice," pt. 2, pp. 371–74, established that, while Langenstein borrowed from Conrad, d'Ailly's *Tractate on the Reformation of the Church* depended on Langenstein's *Epistle.*

41. For brief summaries of d'Ailly, Gerson, Zabarella, and Cusanus, see Monahan, *From Personal Duties,* 94–95.

42. Francis Oakley, *The Political Thought of Pierre d'Ailly: The Voluntarist Tradition* (New Haven: Yale University Press, 1964); Oakley, "Pierre d'Ailly," in *Natural Law, Conciliarism, and Consent,* 40–57; and Louis Pascoe, *Church and Reform: Bishops, Theologians, and Canon Lawyers in the Thought of Pierre d'Ailly (1351–1420)* (Leiden: Brill, 2005). An English translation of d'Ailly's *Tractate on the Reformation of the Church* is in Cameron, "Conciliarism in Theory and Practice," pt. 2, pp. 189–225.

43. English translation in Spinka, *Advocates of Reform,* 140–48; and in Cameron, "Conciliarism in Theory and Practice," pt. 2, pp. 93–114.

44. Louis Pascoe, *Jean Gerson: Principles of Church Reform* (Leiden, 1973); Francis Oakley, "Gerson and d'Ailly: An Admonition," in *Natural Law, Conciliarism, and Consent,* 74–83; and Brian Patrick McGuire, *Jean Gerson and the Last Medieval Reformation* (University Park: Pennsylvania University Press, 2005).

45. Tierney, *Foundations,* 199–214; Thomas Morrissey, "The Decree *Haec sancta* and Cardinal Zabarella," AHC 10 (1978): 145–76.

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crucial to the council, including its decision to declare *Haec sancta* a dogma of the catholic faith.[46] Like Segovia, the young Aeneas Sylvius Piccolomini wrote a history of Basel, but unlike his colleague, Aeneas abandoned the council after a long period of deep involvement. On the way to his election as Pope Pius II, he rewrote his earlier history in a light more favorable to himself and the papal cause.[47]

Yet, among all these, one work calls for special attention. It is a comprehensive and creative working-through of conciliar principles, the *Catholic Concordance* (*De concordantia catholica*), composed at the Council of Basel in 1432–33 by a German canonist, Nicholas of Cusa (1401–64).[48] One particular proposition characterizes this remarkable work and the conciliar movement as a whole: authority to rule is derived from God and executed through persons and councils by elective consent.[49]

In his overarching quest for concord and unity, Cusanus never questioned the "interior" power of pope and priests to console burdened souls through confession and sacraments. Instead, the *Catholic Concordance* aspired to a church where all ranks and offices are open to regular reform and made up of mutually dependent and cooperating parts, each of which has its function to serve the church's well-being.[50] But in the "exterior" realm, whether in *regnum* or *sacerdotium,* ecclesiastical or secular arenas, Cusanus seems to affirm two opposing principles: a Neoplatonic tradition of hierarchical gradations in which pope or emperor stands at the apex, derived from a highly influential thinker whom we know as Pseudo-Dionysius; and the inalienable right to consent by the whole body. If by consent

46. Santiago Madrigal Terrazas, *El proyecto eclesiológico de Juan de Segovia (1393–1458): Estudio del "Liber de substantiae ecclesiae"* (Madrid: Universidad Pontificia Comillas, 2000); Jesse Mann, "Truth and Consequences: Juan de Segovia on Islam and Conciliarism," *Medieval Encounters* 8 (2002): 79–90.

47. Gerald Christianson, "Aeneas Sylvius Piccolomini and the Historiography of the Council of Basel," in *Ecclesia Militans: Studien zur Konzilien- und Reformationsgeschichte: Remigius Bäumer zum 70. Geburtstag,* ed. Walter Brandmüller et al., 2 vols. (Paderborn: Schöningh, 1988), 1:157–84; and "Introduction: From Private Person to Posterity," in Izbicki, Christianson, and Krey, *Reject Aeneas, Accept Pius,* 3–57. In connection with leaders at the Council of Basel who have merited study, one should also mention the Dominican theologian and historian of the council's opening, John of Ragusa, and its first president, Giuliano Cesarini. On the former, see Santiago Madrigal Terrazas, *La eclesiología de Juan de Ragusa, O.P. (1390/95–1443): Estudio e interpretación de su "Tractatus de ecclesia"* (Madrid: UPCO, 1995); on the latter, Gerald Christianson, *Cesarini, the Conciliar Cardinal: The Basel Years, 1431–1438* (St. Ottilien: EOS-Verlag, 1979).

48. Bellitto, Izbicki, and Christianson, *Introducing Nicholas of Cusa;* Morimichi Watanabe, "Authority and Consent in Church Government: Panormitanus, Aeneas Sylvius, Cusanus," *Journal of the History of Ideas* 33 (1972): 217–36, reprinted in Watanabe, *Concord and Reform: Nicholas of Cusa and Legal and Political Thought in the Fifteenth Century,* ed. Thomas M. Izbicki and Gerald Christianson (Aldershot, U.K.: Ashgate, 2001), 59–79.

49. Nicholas of Cusa, *The Catholic Concordance,* trans. Paul Sigmund (Cambridge: Cambridge University Press, 1991), 2:14, 19, 34.

50. Francis Oakley, "'Anxieties of Influence': Skinner, Figgis, Conciliarism, and Early Modern Constitutionalism," *Past and Present* 151 (1996): 1–28. On Nicholas of Cusa's theology of reform, see Walter Andreas Euler, "Cusanus und die Reform der Kirche heute," *Kleine Schriften der Cusanus-Gesellschaft* 14 (Trier, 1994).

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Nicholas meant only a tacit acceptance, he was remarkable nevertheless for advocating, and proposing specific directions for, the election of all church leaders.[51]

The apparent conflict between these principles of order and consent becomes less problematic if we assume, as Cusanus did, that while God alone is undivided and sovereign, and sovereignty in this world rests potentially with all the people, the "divine ray" gives form to this potentiality and is expressed through gradations of power. Authority, then, comes both from "above" and "below," both from hierarchy and consent.

Cusanus and the other leading conciliarists were "advocates of what amounted to a constitutional revolution in the church."[52] What they held in common was a belief that the pope, however much his office was divinely instituted, was neither absolute nor incapable of error but a constitutional ruler and susceptible to correction; that he possessed only a ministerial authority delegated to him by the whole community of the faithful; that this community could exercise power through its representatives assembled in a general council, and in certain cases could even depose a pope.[53]

Perhaps because Cusanus feared the potential consequences of this "constitutional revolution," he left the Council of Basel to serve Pope Eugenius and the cause of unity with the East. Upon his return from Constantinople, where the pope had sent him to bring the Greek delegation to Italy, the canonist had a shipboard experience, a "gift from the father of lights," after which he distinguished himself even more as theologian, philosopher, mathematician, mystic, and reformer. In addition, he became a papal diplomat, with a reputation as the "Hercules of the Eugenians," and a cardinal in the service of Pope Pius II, who issued the decree that denied appeals to a council over the authority of a pope.

Cusanus's reversal, and its manifestations in the ups and downs of his later career, reveals a tension in post-Basel ecclesiology that apparently could no longer be resolved. On the one hand, as Nicholas himself made clear in the *Catholic Concordance,* the church is the community of the faithful. The form of this community is synodal and embodies the sharing of God's grace. On the other hand, Cusanus's constant aim, also expressed in the *Catholic Concordance,* was to unite church and empire with the papacy as a reflection of the divine hierarchy flowing down from heaven itself.[54]

51. Monahan, *From Personal Duties,* 100–3.
52. Oakley, *The Western Church in the Later Middle Ages,* 223.
53. Oakley, *The Conciliarist Tradition,* 72, gives a succinct summary.
54. Erich Meuthen, *Nikolaus von Kues: Skizze einer Biographie,* 7th ed. (Münster: Aschendorff, 1992), 92.

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Roads Less Taken: Conciliarism in Political Thought

Did appeals to a council cease, as Pope Pius hoped, and the synodal ideal die with it? Or did the vitality of conciliar theory continue to evolve to the degree that it imparted far-reaching effects upon secular constitutional thought as well as Christian ecclesiology, both catholic and evangelical?

Tierney's *Foundations* set off a debate on these questions even though the author explicitly limited the scope of his book to the sources of conciliarism. In turn, the debate has stimulated different roads of research that complement the story of beginnings with the story of continuities and outcomes.[55]

With regard to the latter, attention has focused especially on the contributions of conciliarism to Western political theory. Modern social and political theorists have not always shared the view of historians about the influence of religion on society and politics, and often have separated secular doctrines from political theory rooted in theology.[56] In spite of this reticence, Tierney and especially Oakley have succeeded in interesting scholars from a variety of disciplines in the religious contributions to modern constitutionalism. To an extent unimaginable a hundred years ago, they have extended the reach of conciliar theory beyond *Execrabilis* and the apparent failure of the movement, even beyond the decisive separation of churches in the Reformation.[57] Furthermore, just as in the 1960s Vatican II attracted attention to conciliar theory, the sudden collapse of communism in the 1990s attracted attention to the roots of constitutional theory and its spread throughout the Western world.

Despite his fondest hopes, Aeneas Sylvius (even before he was Pius II) became acutely aware that conciliar theory remained alive and well when, with biting irony, the faculty of the University of Cologne threw his early conciliar exploits back at him.[58] But his appeal that they "reject Aeneas, accept Pius" should not detract us from noting the critical role of universities in the continuing defense of conciliar theory. Most important of all was the University of Paris, which one could reasonably add to the major "figures" in the development of conciliar theory mentioned earlier, where even before d'Ailly and Gerson there were Con-

55. Tierney, *Foundations,* xxii–xxiii. Tierney himself went on to write an even more controversial book, *Origins of Papal Infallibility, 1150–1350,* 2nd ed. (Leiden: Brill, 1988).

56. See the introduction to Philip Gorski, *The Disciplinary Revolution: Calvinism and the Rise of the State in Early Modern Europe* (Chicago: University of Chicago Press, 2003).

57. This is best summarized in Tierney's *Religion, Law, and the Growth of Constitutional Thought,* especially 1; and in Oakley, *The Conciliarist Tradition,* ch. 6.

58. See "Introduction: From Private Person to Posterity," in Izbicki, Christianson, and Krey, *Reject Aeneas, Accept Pius,* 3–57.

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rad of Gelnhausen and Henry of Langenstein, and long after there were Jacques Almain and John Mair (also known as Major).

Thus, while conciliarism was apparently defeated within the church, conciliar ideas on representation, collegiality, and consent remained alive at the University of Paris and elsewhere beyond the fifteenth century. A growing number of scholars who study the formulation and expression of Protestant resistance theory that justified the reaction against monarchy now count conciliarism "as the most significant ecclesiological vehicle for the transmission of such ideas."[59]

When the Reformation broke out in France, the type of government that the French Reformed Church developed was synodical and based on representation, which in Aristotelian political theory qualified as a republican form of government.[60] This type of polity, together with ideas of resistance, were taken up and adapted most notably in Scotland when Mary Tudor attempted to initiate a Catholic restoration.[61]

The figure that links the continent and the British Isles is probably John Ponet, whom Oakley maintains was the first to offer "a complete doctrine of resistance formulated by a Protestant thinker." The significance of Ponet's role becomes clear when we learn that he was familiar with John Mair's writings. In addition, Ponet was the teacher of George Buchanan, whose work was known in England and, Oakley believes, remains among the most important expositions of resistance theory in the two centuries before John Locke.[62]

It is not surprising, then, that while Thomas Jefferson (1743–1826), the principal author of the Declaration of Independence, was an admirer of all things French, including the notion of individual rights and the human compact, the Reverend John Witherspoon (1723–94), a Presbyterian clergyman who also signed the Declaration, and James Madison (1751–1836) and George Mason (1725–92), major contributors to the Constitution, leaned to Locke and the English and Scottish texts with their emphasis on resistance and representative assemblies.[63]

59. Monahan, *From Personal Duties,* 108.

60. Glenn Sunshine, *Reforming French Protestantism: The Development of Huguenot Ecclesiastical Institutions, 1557–1572* (Kirksville, Mo.: Truman State University Press, 2003), 171.

61. Monahan, *From Personal Duties,* 107.

62. Francis Oakley, "On the Road from Constance to 1688: The Political Thought of John Major and George Buchanan," in *Natural Law, Conciliarism, and Consent,* 10–11. For brief descriptions of Mair (Major), Jacques Almain, and George Buchanan, see Oakley, "Almain and Major: Conciliar Theory on the Eve of the Reformation," in *Natural Law, Conciliarism, and Consent,* 673–90; introduction to *Conciliarism and Papalism,* ed. J. H. Burns and Thomas M. Izbicki (Cambridge: Cambridge University Press, 1997), vii–xxi; and Monahan, *From Personal Duties,* 109–26.

63. In a sizable literature, see two recent works on John Witherspoon. The one stresses his political thought and the other his theology: Jeffrey Morrison, *John Witherspoon and the Founding of the American Republic* (Notre

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Yet while England and Scotland are better-known stories, less-familiar tracts on resistance and representation were also composed by continental Lutheran, Calvinist, and Huguenot authors.[64] Through these various channels on the continent and in the British Isles conciliar theory passed into the mainstream of political theory and came to share in the constitutional heritage of a modern society that had little or no memory of its origins in ecclesiology or ecclesiastical affairs.

Conciliarism in the Life of the Church

If the relation between conciliar theory and society has attracted considerable interest of late, the question of how it has impacted the internal structure of the church is another story, and one that only now is beginning to receive comprehensive treatment.

Until John XXIII called Vatican II in 1959, and this led many to read Tierney's *Foundations,* published four years earlier, Vatican I and its definition of papal primacy seemed to leave Roman Catholic historians with little choice but to treat the conciliar movement as a minor or even misguided moment in the life of the church.

Francis Oakley has traced the neglect, misunderstanding, and even suppression of the conciliar option down to Vatican I,[65] and one might illustrate the story further with the fate of Hans Küng, who was disciplined in part for his endorsement of this option and its consequences for papal authority.[66] In any case, it seems clear that the precise role councils should play in relation to the hierarchy and teaching authority of the Catholic Church has never been settled with finality.

The long involvement in this discussion of Joseph Ratzinger, now Pope Benedict XVI, lends encouragement to those who wish to engage in further reflection, although the pope has recently shown a tendency to revise his earlier position on the fundamentally theological nature of synods in the direction of a more functional role. Paradoxically, this later approach allowed him to accept the Lutheran World Federation, a worldwide synod of churches, as a partner in the joint Lutheran–

Dame, Ind.: University of Notre Dame Press, 2005); and L. Gordon Tait, *The Piety of John Witherspoon: Pew, Pulpit, and Public Forum* (Louisville: Geneva, 2001).

64. See Monahan, *From Personal Duties,* pt. 4.

65. Oakley, *The Conciliarist Tradition,* viii, 252. See also Hans Schneider, *Das Konziliarismus als Problem der neueren Katholischen Theologie* (Berlin: De Gruyter, 1976).

66. Most to the point here is Hans Küng, *Structures of the Church,* trans. Salvator Attanasio (New York: Nelson, 1964), although it was less notorious than his *Infallible? An Inquiry,* trans. Edward Quinn (New York: Doubleday, 1971), and *Infallible? An Unresolved Enquiry* (New York: Continuum, 1994). See also Küng, *The Church,* trans. Ray Ockenden and Rosaleen Ockenden (New York: Sheed & Ward, 1968); and *Küng in Conflict,* ed. and trans. with commentary by Leonard Swidler (Garden City, N.Y.: Doubleday, 1981).

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Roman Catholic statement on justification by faith.[67] The sum of all this is that the ambiguities and paradoxes are cause for cautious optimism if they encourage discussion and debate to focus on the subject of synodality, its origins and its inheritance from the fifteenth-century conciliar movement.[68]

Neglect of the movement among Protestants may have arisen for different reasons, but is no less significant. Since the conciliar era was followed by the Reformation, Protestants often assume that the late Middle Ages must have been a time of moral degradation and decline, and conclude that the period could hardly contribute anything of importance to Protestant ecclesiology.

To cite a prominent example, one might consider the case of Martin Luther. Despite his apparently conflicted views, or perhaps because of them, the reformer reveals continuity as well as discontinuity with the late medieval councils. In 1517, the year he posted the *Ninety-five Theses* on the Wittenberg church door, the University of Paris demanded a future council. The next November 1518, following an unsatisfactory interview with Cardinal Cajetan, Luther issued his own appeal "to better inform the pope" (*ad papam melius informandum*). However politely it was addressed, Luther's *Appellatio* placed him in critical opposition to his superiors, since such appeals were still under the ban of *Execrabilis.*[69]

A second appeal followed the publication in June 1520 of the bull *Exsurge domine,* which threatened him with condemnation as a heretic unless he recanted within sixty days. Article 28 of the bull specifically cited his conciliar theory. Luther responded by following legal precedent and appealing to a future council for a review of the proceedings against him. Still, it was not long before he consigned

67. I am grateful to my colleague William Buckley for pointing out the appraisal by Avery Cardinal Dulles, "From Ratzinger to Benedict," *First Things* 160 (2006): 24–29. Dulles maps how Ratzinger was inclined to Augustine over Aquinas and sensitive to Lutheran concerns, but later public responsibilities and a confessional Catholicism have increasingly eclipsed his early, post-Vatican enthusiasm for episcopal conferences, synods of bishops, and local churches. In 1986 he declared: "We must not forget that the episcopal conferences have no theological basis; they do not belong to the structure of the Church as willed by Christ that cannot be eliminated; they have only a practical, concrete function."

68. Suggestive models include Giuseppe Alberigo, *Chiesa conciliare: Identità e significato del conciliarismo* (Brescia: Paideia, 1981); *Election and Consensus in the Church,* ed. Giuseppe Alberigo and Anton Weiler (New York: Herder & Herder, 1972); and *Reception of Vatican II,* ed. Giuseppe Alberigo, Jean-Pierre Jossua, and Joseph Komonchak, trans. Matthew O'Connell (Washington, D.C.: The Catholic University Press of America, 1987). An encouraging sign is a continuing work led by Alberto Melloni. In addition to *Synod and Synodality,* see *Repraesentatio: Mapping a Keyword for Churches and Governance, Proceedings of the San Miniato International Workshop, October 13–16 2004,* ed. Massimo Faggioli and Alberto Melloni, Christianity and History Series of the John XXIII Foundation for Religious Studies in Bologna 3 (Münster: Lit Verlag, 2006). This volume, devoted to the study of a key word in the history of synodical government, is part of a larger project to study the history of synodality and church governance.

69. *Martin Luthers Werke. Kritische Gesamtausgabe* [*Weimar Ausgabe*] (Weimar: Böhlau, 1883–), 2:36–40 (November 28, 1518). On Cajetan see Burns and Izbicki, *Conciliarism and Papalism.*

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the same bull of excommunication, together with a copy of canon law, into a bonfire started by his students outside the Elster Gate in Wittenberg.[70]

Such ambivalence may be explained by reference to a critical set of treatises written in 1520, especially his address *To the Christian Nobility.* At the same time that he urges the German princes to support a council that will reform the church, he mounts a direct assault on canon law as a subversion of the gospel.[71] Luther, together with other major reformers, had great respect for the law, both as an instrument of God's creation and as a mirror for sinners. His objection to canon law in the address relates to the way it had developed over the centuries and become what he now considered an alternate gospel that had contrived to legitimate the papal regime. In Luther's view even a conciliar authority that could serve as a check on papal pretensions would not suffice if by definition the hierarchy is primary and if preaching and sacramental life flow from, and are validated by, the assembly of bishops in communion with the pope, in whom resides the fullness of power (*plenitudo*). Since the power of Christ resides primarily in the Word, Luther's conciliar theory was based on the primacy of the gospel in which the Holy Spirit "calls, gathers, and enlightens" the community of saints around the hearing of the Word and the administration of the sacraments. A council, like all offices and all authority, is a creature of this Word.[72]

Yet, while Luther refused to attend the Council of Trent when it finally opened in December 1545, because he believed that it would not be free, he never repudiated conciliarism. As he declared in a summary treatise, *On the Councils and the Church,* "I am now and must be a good conciliarist."[73]

While the Protestant relationship with papal councils from Trent to Vatican I remains a story of increasing distrust and polarization, its own heritage of conciliarism is both profound and lasting, if little understood or appreciated. John

70. *Weimar Ausgabe,* 7:75–82 (November 17, 1520). See Spinka, *Advocates of Reform,* 105; Peter Meinhold, "The Council in the Century of the Reformation," in Margull, *The Councils of the Church,* 241–78, here 247–50; and Jedin, *History of the Council of Trent,* 1:172–77.

71. Luther, *To the Christian Nobility of the German Nation,* in *Luther's Works* (American edition), vol. 44 (Philadelphia: Fortress, 1966), 123–217.

72. Meinhold, "The Council in the Century of the Reformation," 249; Jaroslav Pelikan, "Luther's Attitude toward Church Councils," in *The Papal Council and the Gospel: Protestant Theologians Evaluate the Coming Vatican Council,* ed. Kristen Skydsgaard (Minneapolis: Augsburg, 1961), 37–60; and Christa Tecklenburg Johns, *Luthers Konzilsidee in ihrer historischen Bedingtheit und ihrem reformatorischen Neuansatz* (Berlin: Töpelmann, 1966), especially 172–79. In general, see Scott Hendrix, *Luther and the Papacy* (Philadelphia: Fortress, 1981); and John Headley, *Luther's View of Church History* (New Haven: Yale University Press, 1963).

73. Luther, *On the Councils and the Church,* in *Luther's Works,* 41:13–178, here 37. On the problematic of Protestant attendance at Trent, see Nelson Minnich, "'Wie in dem Basilischen concilio den Behemen gescheen'? The Status of the Protestants at the Church of Trent," in *The Contentious Triangle: Church, State, and University,* ed. Rodney Petersen and Calvin Augustine Pater (Kirksville, Mo.: Truman State University Press, 1999), 201–19.

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Thomas McNeill, a great church historian and Presbyterian, maintained long ago in his seminal work *Unitive Protestantism* that "Protestantism at the outset was not merely national or sectional, but catholic in spirit and aim." Two principles are joined together here. First, the Protestant principle of spirituality is the familiar "priesthood of the people" in which priesthood is exercised socially—not "every person is one's own priest," but a mutual ministry of service to one another.[74] In addition, the disruption of church unity brought about by the Reformation was attended by a revival of cooperative conciliarism that became the normal Protestant principle of church government.[75]

These affirmations do not paper over the differences between Protestant and Catholic conciliarism, which remain a significant issue in ecumenical dialogue even today.[76] Protestants drove the practice and theory of councils deep into local congregations as well as national structures. But the absence of this local conciliarism as a substructure of the major medieval councils may have accounted at least in part for the apparent success of papal opposition to the conciliar movement. Medieval Catholics never had a chance to get into the habit.[77]

A significant remnant of the conciliar legacy, on the other hand, resides in those several American denominations that have remained distinctly synodical, even Lutheranism.[78] This reflects Luther's ecclesiology. While not providing for a specific church polity, and ambiguous toward papal assemblies, Luther maintained that the criteria he laid down for councils, including the Council of Trent, applied to all assemblies, great and small, including the mini-councils going on all the time in parishes and schools.[79]

The establishment of a synodical polity, however, is most clearly evident in the Reformed tradition. Although John Calvin did not feel it necessary, any more

74. John Thomas McNeill, *Unitive Protestantism: The Ecumenical Spirit and Its Persistent Expression,* rev. ed. (Richmond: John Knox, 1964), 36–38, 129. The book was originally published in 1930 as *Unitive Protestantism: A Study in Our Religious Resources* (New York: Abingdon, 1930), but the author had sketched out his thesis earlier in various articles. Of greatest interest is "Luther and the Constitutional Principle of Protestantism," *Canadian Journal of Religious Thought* 6 (1929): 181–93, here 191–93. But see also McNeill, "Calvin's Efforts toward the Consolidation of Protestantism" (411–33) and McNeill, "Cranmer's Project for a Reformed Consensus" (539–65), both in *Journal of Religion* 8 (1928); McNeill, "Catholic Protestantism," *Canadian Journal of Religious Thought* 5 (1928): 449–62.

75. McNeill, *Unitive Protestantism,* 126.

76. Ibid., 93–94; " McNeill, "Luther and the Constitutional Principle of Protestantism," 183.

77. McNeill, *Unitive Protestantism,* 128. If Mansi—who mentions few—is representative, the number of local synods seems to have declined in the fifteenth century. The Council of Basel felt compelled to issue a decree that encouraged more frequent meetings. See Mansi, vol. 31a; and Christianson, *Cesarini,* ch. 5.

78. McNeill, *Unitive Protestantism,* 126–27.

79. Ibid., 113. Luther asserted that his criteria for a general council applied to "all other councils, great or small, even though there were many thousands of them." Quoted by Pelikan in "Luther's Attitude toward Church Councils," 43.

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than Luther, to arrange for a specific form of intercongregational cooperation and governance, a tradition of synods and ecclesiastical assemblies in Reformed Protestantism has been "a salient characteristic" from the beginning.[80] This development arose in response to the challenge of maintaining communication and theological identity among a rapidly increasing number of churches, especially in France, where the crown was unsympathetic. From its perspective, the type of government adopted by the French Reformed churches "was inherently subversive."[81]

The course of this conciliarism, evident in the establishment of a synodal system—whether in parish councils or regional and national assemblies—followed much the same path as, and often went hand in hand with, the development of Protestant theories of resistance to monarchy, traveling from Paris to the Netherlands and Scotland before arriving in North America. For example, a year before the Lutheran princes presented their definitive statement of protest, known as the Augsburg Confession, to Emperor Charles V in 1530, John Mair (Major) published *A Disputation on the Authority of a Council.*[82] When he wrote the treatise Mair was teaching at Paris, but he soon returned to his native Scotland, where his readers included the future reformer George Buchanan.[83]

If this be the case, we should no longer find it surprising that, with their common ties to Paris and conciliar theology, synods in the Calvinist tradition developed earliest in France. What is surprising is that, while pioneering and yet persuasive after these many years, McNeill's thesis is nearly forgotten today. Even recent scholars, unaware of his work or the pre-Reformation tradition of conciliarism, must explain the appearance of synodical forms of government in France as arising out of necessity alone,[84] or echo Figgis and maintain that Protestant ecclesial structures were built not on theological principles but on parliamentary models of civil society.[85]

This essay offers another explanation and perhaps some encouragement from the lessons of the fifteenth century. Dialogues among the world communions in the past half century, especially those with the Roman Catholic Church, have

80. Raymond A. Mentzer, "The Synod in the Reformed Tradition," in Melloni and Scatena, *Synod and Synodality,* 173–84, at 173.

81. Sunshine, *Reforming French Protestantism,* 171.

82. An English translation is in Spinka, *Advocates of Reform,* 175–84.

83. Ibid., 104. See also J. H. Burns, "*Politica regalis et optima:* The Political Ideas of John Mair," *History of Political Thought* 2 (1989): 31–61.

84. Mentzer, "The Synod in the Reformed Tradition," 173.

85. André Birmelé, "Le défi de la synodalité les Eglises de la Réforme," in Melloni and Scatena, *Synod and Synodality,* 75–89.

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given new significance to the ecumenical enterprise—a development to which the growing importance of the World Council of Churches testifies. Yet, if an imperative in the twenty-first century is to open a specific dialogue on the reception of decisions and recognition of the varied ways of decision making, one can hope that the rich tradition of Tierney and McNeill on the heritage of conciliarism—both catholic and evangelical, both ecclesial and constitutional—will provide a shared historical and theological foundation. It might also encourage us to celebrate even greater degrees of pluralism and mutual respect.

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PART I Historical Perspectives

Introduction

THOMAS M. IZBICKI

Until the Second Vatican Council met in 1962, the councils of the fifteenth century, First Pisa (1409), Constance (1414–18), and Basel-Ferrara-Florence (1431–49), seemed like historical footnotes. The convocation of Second Vatican, with its efforts at *aggiornamento* (updating) and its emphasis on collegiality among bishops, made the claims to synodal power put forth at the fifteenth-century councils seem more relevant than previously to the affairs of the Catholic Church. Such claims were not based just on contemporary theologies. Their roots were to be found deep in ecclesiastical history. Much of this history had been documented by Brian Tierney in *Foundations of the Conciliar Theory* (1955). Other contributors to this recovery of the conciliar heritage include Francis Oakley and Giuseppe Alberigo, both represented in this volume. Theirs are but a few of the names to be found in the extensive literature of the fifteenth-century councils that continues to be produced. Nelson Minnich's chapter provides a road map to this rich heritage, and he carries his labors through the conflicting councils of the early sixteenth century, Second Pisa (1511–12) and the Fifth Lateran Council (1512–17). This extensive survey culminates in a review of the complex issues addressed at the Council of Trent in its three periods of existence (1545–48, 1551–52, 1562–63). It is Trent that dominated church history, seeming an unassailable bulwark of orthodoxy and authority down to the advent of Second Vatican.

The complexities of the history of the conciliar period are illustrated by two other contributions. Emily O'Brien examines one of the most influential fifteenth-century writers on the councils, Aeneas Sylvius Pic-

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colomini. As a young humanist, he supported the Council of Basel's challenge to Pope Eugenius IV (r. 1431–47). Later, he advocated neutrality in the struggle of pope and council, before helping reconcile the Holy Roman Empire to Rome. These diplomatic endeavors secured his promotion to bishop and cardinal. Finally, he reigned as Pope Pius II (r. 1458–64). Piccolomini's histories of the Council of Basel, as O'Brien shows, parallel his changes of allegiance. One history put Basel in a favorable light, while a later one traced the lines of a papalist critique of Basel as a rebel assembly dominated by "cooks and grooms," a view that endured into the twentieth century.

Francis Oakley's essay reminds us, in no uncertain terms, that the historiography of the fifteenth-century councils cannot be comfortably separated from polemic over power relationships in the church. Oakley also takes pains to show that none of the ecumenical councils was free of strife and argument. In this light, the efforts of Constance and Basel to reunite, reform, and restrain the papacy appear more comprehensible. Oakley also traces the history of conciliar sentiment well beyond the period of papal restoration that began with the effort to transfer the Council of Basel to Ferrara in 1438 and continued through the time of Trent into the seventeenth and eighteenth centuries. As he notes, only in the nineteenth century did the effort to tidy up church history produce the illusion that conciliarism was a passing fad inspired by the Great Schism (1378–1417). It became fashionable even for non-Catholic scholars to attribute this challenge to papal monarchy either to the heterodox opinions of rebels like Marsilius of Padua and William of Ockham or the influence of secular legislative assemblies. The "politics of oblivion" have given way to affirmation of a less tidy but more challenging sense of the past.

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Councils of the Catholic Reformation

A Historical Survey

NELSON H. MINNICH

The general councils of the fifteenth and sixteenth centuries have attracted the attention of scholars interested in questions of ultimate authority and the cause of reform in the church. Those concerned with limiting papal power (e.g., conciliarists, episcopalists, Gallicans, Febronianists, and Protestants) have found support for their ideas in the actions and decrees of the Councils of Pisa (Pisa I, 1409), which deposed two rival popes, Constance (1414–18), which declared a council superior to a pope, Basel-Lausanne (1431–49), which declared conciliar supremacy an article of faith, and Pisa-Milan-Asti-Lyon (Pisa II, 1511–12), which reiterated the declarations of Constance and Basel and suspended a pope from his administration of the church. Scholars wishing to defend papal power looked to the actions of the papal legates at Pavia-Siena (1423–24) and at Trent-Bologna-Trent (1545–63) and to the decrees of Ferrara-Florence-Rome (1438–45) on papal primacy and of Lateran V (1512–17) on the pope's power to convoke, transfer, and close a council. Both sides have subjected the decrees of these councils to interpretations favoring their positions.

To promote their ecclesiological views and ideas on church reform, conciliar fathers and popes have ordered the publication of the *acta* and

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other documents related to these councils. Scholars have also done the same on their own. The Council of Basel in 1442 ordered the publication of an epitome of the acta of Constance that was not effected until 1500 by the printing in Hagenau by Jerome of Croaria of *Acta scitu dignissima docteque concinnata Constantiensis concilii celebratissimi*.[1] Zaccaria Ferreri (1479–1524), the ardent conciliarist and secretary of Pisa II, reprinted in Milan in 1511 the acta of the Council of Basel, published a dozen years earlier by the reformer Sebastian Brant (c. 1457–1521); Ferreri also saw to the publication in Paris in 1512 of the acta of Pisa II ordered by that council.[2] An anonymous editor published on the press of the Huguenot "Melchior Mondiere" in Paris in 1612 the acta of Pisa I, Pavia-Siena, and Pisa II, which were omitted from the Roman edition (1608–12) of the councils published under Paul V (r. 1605–21).[3] The Lutheran scholar Hermann van der Hardt (1660–1746), librarian to the Duke of Brunswick, published in six tomes the *Magnum oecumenicum Constantiense concilium de universali ecclesiae reformatione, unione et fide.*[4] The grand

1. Nelson H. Minnich, "The First Printed Editions of the Modern Councils: From Konstanz to Lateran V," *Annali dell' Istituto storico italo-germanico di Trento / Jahrbuch des italienisch-deutschen historischen Instituts in Trient* 29 (2003): 447–68, at 450–52; Ansgar Frenken, "Die Quellen des Konstanzer Konzils im den Sammlungen des 17. und 18. Jahrhunderts," AHC 30 (1998): 416–39, at 417n6; and COD, 1:403.]

2. On Ferreri, see Alessandro Ferrajoli, *Il ruolo della corte di Leone X (1514–1516),* ed. Vincenzo De Caprio (Rome: Bulzoni, 1984), 531–44; on his reprinting of Basel, see Minnich, "First Printed Editions," 453; on the ordering by Pisa II of the publication of its acta, see Ferreri's autograph comments on the copy (preserved in the Bibliotheca apostolica vaticana as R.G. Concilli II. 55) of *Promotiones et progressus sacrosancti pisani concilii moderni indicti et incohati anno domini M.D.XI.,* ed. Zaccaria Ferreri (Paris: Jean Petit, 1512), fol. [XLI] verso and on *Decreta sacrosanctae tertiae pisanae Synodi praelibate de eius e Mediolano translatione,* ed. Zaccaria Ferreri (Paris: Jean Petit, 1512), sig. [Aiii] recto. For a fuller description of these acta, see Minnich, "First Printed Editions," 449, 452–54.

3. *Acta Primi Concilii Pisani celebrati ad tollendum schisma anno d[omini] M.CCCC. IX. et concilii Senensis M.CCCC. XXIII. ex codice M.S. Item constitutiones factae in diversis sessionibus sacri generalis concilii Pisani II. M.D.XI. ex Bibliotheca Regia. Reliqua hoc in novo opere contenta, sequens pagina indicabit* (Paris: Sumptis Melchioris Mondiere, 1612). The identification of Melchior Mondiere as a pseudonym for Charles Mondier was made in note 5 of Charles-Joseph Hefele, *Histoire des conciles d'après les documents originaux,* trans. and rev. Henri Leclercq, 11 vols. (Paris: Letouzey et Ané, 1917), 8/1:323; Dieter Girgensohn, "Materialsammlungen zum Pisaner Konzil von 1409: Erler, Finke, Schmitz-Kallenberg, Vincke," AHC 30 (1998): 456–519, at 481–83.

4. On Hardt, see the entry of Friedrich Wilhelm Bautz and Traugott Bautz, *Biographisch-bibliographisches Kirchenlexikon,* 14 vols. (Hamm/Herzberg: Bautz, 1990–98), 2:534–35; and Frenken, "Quellen des Konstanzer Konzils," 421–23. On his collection of Constance documents, see Frenken, "Quellen des Konstanzer Konzils," 423–28; Christopher M. D. Crowder, "Le concile de Constance et l'édition de von der Hardt," *Revue d'histoire ecclesiastique* 57 (1962): 409–45; COD, 1:403–4; and Ansgar Frenken, "Die Erforschung des Konstanzer Konzils (1414–1418) in der letzen 100 Jahren," AHC 25 (1993): 1–512, at 12–13—Hardt's collection, published in Frankfurt and Leipzig by Gensius in 1696–1700 with a seventh index volume in 1742, was incorporated in good part into volumes 27 (1784) and 28 (1785) of the conciliar collection of Giovanni Domenico Mansi (1692–1769)—see Phillip H. Stump, "The Official *Acta* of the Council of Constance in the Edition of Mansi," in *The Two Laws: Studies in Medieval Legal History Dedicated to Stephan Kuttner,* ed. Laurent Mayali and Stephanie A. J. Tibbetts, Studies in Medieval and Early Modern Canon Law 1 (Washington, D.C.: The Catholic University of America Press, 1990), 221–39. For new documents from Barcelona tracing the evolution of the decree *Haec sancta,* see Isaac Vázquez Janeiro, "El decreto *Haec sancta* de Constanza: La más antigua formulación datada de su *iter* conciliar," *Studia gratiana* 29 (1998): 863–81.

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Gallican project led by Étienne Baluze (1630–1718) to publish the documents related to the Council of Basel, although involving famous scholars and supported by Philippe d'Orléans, regent of France (r. 1715–23), produced thirty folio tomes of hand-copied documents but no publication.[5] The popes themselves on occasion ordered the publication of the decrees of councils favoring their power. Leo X (r. 1513–21) commissioned Cardinal Antonio del Monte (1461–1533) to publish the acta of Lateran V in 1521,[6] while Pius IV (r. 1559–65) entrusted to Paolo Manuzio (1512–74) the publication of the decrees of Trent.[7]

The early histories of the councils were frequently written either to justify or attack their actions and decrees. The chronicle of Ulrich Richental (c. 1356/60–c. 1437) was sympathetic to the Council of Constance.[8] The commentaries on the Council of Basel written in 1439–40 by Aeneas Sylvius Piccolomini (1405–64) and the *Historia actorum generalis synodi Basiliensis* (1449–53) of John of Segovia (1393–1458) served as justifications of its deposition of Eugenius IV (r. 1431–47) and election of Felix V (r. 1439–49, d. 1451).[9] The memoirs of Syropoulus sought to discredit the union negotiated at the Council of Florence.[10] Paolo Sarpi (1552–1623), the Venetian defender of an episcopalist view of the church, penned a clever history of the Council of Trent first published in England in 1619 that attacked it for having become a creature of papal efforts to avoid real reform.[11] The exiled Huguenot preacher at the court of Berlin, Jacques Lenfant (1661–1728), published

5. Heribert Müller, "L'érudition gallicane et le concile de Bâle (Baluze, Mabillon, Daguesseau, Iselin, Bignon)," *Francia* 9 (1981): 531–55.

6. *Concilium Lateranense V. generale novissimum sub Julio II. et Leone X. celebratum,* ed. Antonio del Monte (Rome, 1521), sig. AAi verso–AAii verso; the letters of Leo X and del Monte describing this commission are reprinted in vol. 32 of Mansi, 649–53; Minnich, "First Printed Editions," 454–55.

7. On the publication of the decrees but not the acta of Trent by Pius IV, see Hubert Jedin, *Das Konzil von Trient: Ein überblick über die Erforschung seiner Geschichte* (Rome: Edizioni di "Storia e Letteratura," 1948), 17–18.

8. On Richental's chronicle, see the translation and scholarly literature cited in *The Council of Constance: The Unification of the Church,* ed. John Hine Mundy and Kennerly M. Woody, trans. Louise Ropes Loomis, Records of Civilization, Sources and Studies 63 (New York: Columbia University Press, 1961), 84–199; and Thomas Rathmann, *Geschehen und Geschichten des Konstanzer Konzils: Chroniken, Briefe, Lieder und Sprüche als Konstituenten eines Ereignisses,* Forschungen zur Geschichte der älteren deutschen Literatur 20 (Munich: Fink, 2000), 209–26.

9. Aeneas Sylvius Piccolomini (Pius II), *De gestis concilii Basiliensis commentariorum libri II,* ed. and trans. Denys Hay and W. K. Smith (Oxford: Clarendon, 1967), xxviii–xxix; and Antony Black, *Council and Commune: The Conciliar Movement and the Fifteenth-Century Heritage* (London: Burns & Oates, 1979), 118, 124.

10. For an analysis of the memoirs, see Joseph Gill, "The *Acta* and the Memoirs of Syropoulus as History," in his *Personalities of the Council of Florence and Other Essays* (New York: Barnes & Noble, 1964), 144–77.

11. On Sarpi's *Istoria del concilio Tridentino* (first published in London in 1619), see Frances A. Yates, "Paolo Sarpi's *History of the Council of Trent* [1944]," and "A New Edition of Paolo Sarpi [1975]," both reprinted in her *Renaissance and Reform: The Italian Contribution* [Collected Essays 2] (London: Routledge & Kegan Paul, 1983), 189–217, 218–22; William J. Bouwsma, *Venice and the Defense of Republican Liberty: Renaissance Values in the Age of the Counter Reformation* (Berkeley: University of California Press, 1968), 568–623; and the earlier analysis of Jedin, *Überblick,* 83–93.

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polemical histories of three councils that limited papal power: Constance in 1714, Pisa I in 1724, and Basel in 1729 (the last published posthumously).[12] The anti-Roman treatment of these councils in a four-volume study published in 1840 by the Febronianist reformer Ignaz Heinrich von Wessenberg (1774–1860) led Carl Joseph Hefele (1809–93) to undertake his monumental seven-volume *Conciliengeschichte* (1855–74), which defended papal power and inaugurated the modern study of the councils of the fifteenth and sixteenth centuries.[13]

Because the Council of Pisa (1409) was not included in the list of approved general councils compiled by Robert Bellarmine (1542–1621), which came to be treated as authoritative,[14] modern scholarship has often focused on the question of its legal standing. A narrow canonical approach, based on some medieval texts but fundamentally determined by anachronistic criteria promulgated at Vatican I (1869–70) and in the Code of Canon Law (1917), insists that a council can be convoked only by the pope, but Pisa was called by cardinals. While holding that the Roman claimant was the sole legitimate pope and the only person who could call a council, such scholars point out that if one argues that the claims of both the Roman and Avignonese popes were uncertain, then so too would be the authority of their cardinals and thus the legal basis of a council convoked by them would be uncertain.[15] Brian Tierney, however, has shown the medieval canonical roots of the view that a pope deemed heretical may be deposed by a council of bishops convoked by cardinals.[16] Indeed, Pisa deposed both Gregory XII

12. On Lenfant, see L-B-F, "Lenfant (Jacques)," in *Biographie universalle (Michaud) ancienne et moderne,* 45 vols., new ed. (Paris: Desplaces, 1854–65), 24:116–17: *Histoire du concile de Constance,* 2 vols. (Amsterdam: Chez Pierre Humbert, 1714)—Jean Paul Bignon, the fervent Gallican president of the Académies scientifiques and royal librarian, accused Lenfant of manifesting in this work a hatred of the Catholic Church and questioned his abilities as a historian; *Histoire du concile de Pise, et de ce qui s'est passé de plus mémorable depuis ce concile jusqu'au concile de Constance* (Amsterdam: Chez Pierre Humbert, 1724); and *Histoire de la guerre des hussites et du concile de Bâle* (Amsterdam: Chez Pierre Humbert, 1729); and Müller, "L'érudition," 543, 549, 553–54.

13. Ignaz Heinrich von Wessenberg, *Die grossen Kirchenversammlungen des funfzehnten und sechzehnten Jahrhunderts in Beziehung auf Kirchenverbesserung dargestellt,* 4 vols. (Constance: Glückher, 1840), critically reviewed by Hefele in *Theologische Quartalschrift* 23 (1841): 616–64. On Hefele's *Conciliengeschichte* as a response to Wessenberg's work, see Johannes Helmrath, *Das Basler Konzil, 1431–1449: Forschungsstand und Probleme,* Kölner Historische Abhandlungen 32 (Cologne: Böhlau, 1987), 8.

14. Mario Fois, "I concilii del secolo XV," in *Problemi di storia della Chiesa: Il medioevo dei secoli XII–XV,* Cultura e storia 16 (Milan: Vita e Pensiero, 1976), 162–214, here 165; Girgensohn, "Materialsammlungen," 474n71, 477–80.

15. A good example of such an approach is that of Fois, "Concilii," 164–70; and Joseph Gill, "The Fifth Session of the Council of Constance," *Heythrop Journal* 5 (1964): 131–43, at 134, where he affirms approvingly that "Pisa, however, is not numbered in the list of ecumenical councils generally recognized by the Church"; see the critique of this approach in Francis Oakley, *Council over Pope? Toward a Provisional Ecclesiology* (New York: Herder & Herder, 1969), 132–41, 152–58.

16. Brian Tierney, "Hermeneutics and History: The Problem of *Haec sancta,*" in *Essays in Medieval History Presented to Bertie Wilkinson,* ed. T. A. Sandquist and Michael R. Powicke (Toronto: University of Toronto Press, 1969), 354–70, at 369, cited in Remigius Bäumer, "Die Reformkonzilien des 15. Jahrhunderts in der neueren Forschung," AHC 1 (1969): 153–64, at 161.

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(r. 1406–15, d. 1417) and Benedict XIII (r. 1394–1417, d. 1423) as notorious schismatics and heretics.[17] While their partisans rejected this conciliar action,[18] most of Christian Europe's prelates, theologians, canonists, and rulers recognized Pisa as a general council and accepted its decision as valid.[19] The initial reluctance of the Council of Constance to acknowledge the authority of Pisa was due to its fear that such an acceptance would imply that only John XXIII (r. 1410–15, d. 1419) was the valid pope and thus hinder its efforts to restore church unity based on eliminating all three claimants.[20] Recent scholarship has widened the scope of investigation by publishing and studying lists of the participants at Pisa. These rolls show that the greater part of Western Christendom was well represented; indeed, attendance at Pisa compares favorably to that at earlier councils.[21] Margaret Harvey has studied English participation; Hélène Millet, French.[22] Aldo Landi has incorporated modern scholarship into his study, which argues that Pisa was a valid general council, well attended, not needing a convocation by a pope (the first general council to be convoked by a pope was only in 1123!), and set the pattern for the future councils by extending voting rights to university doctors and masters.[23] Dieter Girgensohn, who has published numerous studies on the historiography and documentary sources of the council and its use of the "nations"

17. Christopher M. D. Crowder, *Unity, Heresy, and Reform, 1378–1460: The Conciliar Response to the Great Schism* (London: Edward Arnold, 1977), 61; for Pedro de Luna's own treatise on how to eliminate the schism, see Dieter Girgensohn, "Ein Schisma ist nicht zu beenden ohne die Zustimmung der konkurrierenden Päpste: Die juristische Argumentation Benedicts XIII (Pedro de Lunas)," AHP 27 (1989): 197–247.

18. Nicolas de Clamanges (c. 1363–1437), a supporter of Benedict XIII, attacked the Pisan Council as fallible for being led by greedy men, hastily deposing the rival popes, and introducing new disorder by electing yet a third pope; see Christopher M. Bellitto, "Ambivalence and Infallibility at the Council of Constance," *Cristianesimo nella storia* 22 (2001): 5–21.

19. Karl August Fink, "Zur Beurteilung des Grossen Abendländischen Schismas," *Zeitschrift für Kirchengeschichte* 73 (1962): 334–43, at 339, 343.

20. Remigius Bäumer, "Die Zahl der allgemeinen Konzilien in der Sicht von Theologen des 15. und 16. Jahrhunderts," AHC 1 (1969): 288–313, at 296–98; on the arguments of Karl August Fink defending the legitimacy of Pisa, see Fois, "Concilii," 172–73.

21. E.g., Graziano di S. Teresa, "Un elenco dei participanti al concilio di Pisa del 1409," *Ephemerides carmeliticae* 16 (1965): 384–411; Josef Leinweber, "Ein neues Verzeichnis der Teilnehmer am Konzil von Pisa 1409," in *Konzil und Papst: Historische Beiträge zur Frage der höchsten Gewalt in die Kirche: Festschrift für Hermann Tüchle,* ed. Georg Schwaiger (Paderborn: Schöningh, 1975), 207–46; Hélène Millet, "Les pères du concile de Pise (1409): Edition d'un nouvelle liste," *Melanges de l'Ecole française de Rome, Moyen Ages–temps modernes* 93 (1981): 713–90, at 722–90. For a comparison with earlier councils, see Aldo Landi, *Il papa deposto (Pisa 1409): L'idea conciliare nel Grande Scisma,* Studi storici (Turin: Claudiana, 1985), 212. For the importance of other new source materials, see Thomas E. Morrissey, "After Six Hundred Years: The Great Western Schism, Conciliarism, and Constance," *Theological Studies* 40 (1979): 495–509, at 508.

22. E.g., Margaret Harvey, *Solutions to the Schism: A Study of Some English Attitudes, 1378 to 1409,* Kirchengeschichtliche Quellen und Studien 12 (St. Ottilien: EOS-Verlag, 1983), especially 147–80; Hélène Millet, "Les Français du royaume au concile de Pise (1409)," in *Crises et réformes dans l'Eglise de la réforme grégorienne à la préréforme,* Actes du 115e Congrès national des sociétés savantes, section d'histoire médiévale et de philosophie (Paris: Editions du CTHS, 1991), 259–85.

23. For a summary of Landi's findings, see his *Papa deposto,* 212–13.

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system and efforts to effect church reform, is preparing a monograph that will become part of the now-standard modern series on the history of councils.[24]

Research on the Council of Constance has been surveyed by Ansgar Frenken, who shows the new impulses given to scholarship by the publication of *Acta concilii Constantiencis,* 4 volumes (1896–1928), a collection of acta, sermons, and other writings edited by Heinrich Finke (1855–1938), assisted by Johannes Hollnsteiner (1895–before 1976) and Hermann Heimpel (1901–88). In addition to the numerous studies of Finke and his Freiburg disciples, French historians, led by Noel Valois (1855–1915), and Spanish historians, notably José Goñi Gaztambide for Navarre and Aragon and Luis Suárez Fernandez for Castile, and the German historian Johannes Grohe for all the Spanish kingdoms, have studied the nations' role in the councils of the early fifteenth century.[25] Adolar Zumkeller has surveyed the role of Augustinian friars in these councils.[26]

Recent scholarship on the Council of Constance has focused on a few canonical questions. Granted that the council was ecumenical, at what point did it become so? Scholars such as Paul de Vooght, O.S.B., Karl August Fink, and Francis Oakley argue that the council was ecumenical from the start because convoked by a legitimate pope, the Pisan pope John XXIII, supported by the king of the Romans, and charged with ending the schism.[27] Those who hold that the Roman pope Gregory XII was the sole legitimate pope, scholars such as Joseph Gill and Walter Brandmüller, insist that Constance became a legitimate council only when Gregory XII convoked it in his own name.[28] Scholars who follow the view

24. E.g., Girgensohn, "Pisa, Konzil von (1409)," in *Theologische Realenzyklopädie,* vol. 20 (Berlin: De Gruyter, 1996), 646–49; and his "Über die Protokolle des Pisaner Konzils von 1409," AHC 18 (1986): 103–27; his monograph will appear in the series Konziliengeschichte to be published by Ferdinand Schöningh of Paderborn.

25. Frenken, "Erforschung," on Finke, Hollnsteiner, and Heimpel, 17–89; on French historians, 91–110; on Spanish, 110–18; and Johannes Grohe, "Spanien und die grossen Konzilien von Konstanz und Basel," in *"Das kommt mir spanisch vor": Eigenes und Fremdes in den deutsch-spanischen Beziehungen des späten Mittelalters,* ed. Klaus Herbers and Nikolas Jaspert, Geschichte und Kultur der Iberischen Welt 1 (Münster: LIT Verlag, 2004), 493–509.

26. Adolar Zumkeller, *Theology and History of the Augustinian School in the Middle Ages,* ed. John E. Rotelle, trans. M. Viebeck and Audrey Fellows (Augustinian Press, 1996), 155–94.

27. Paul de Vooght, *Les pouvoirs du concile et l'autorité du pape au concile de Constance: Le décret "Haec sancta Synodus" du 6 avril 1415,* Unam Sanctam 56 (Paris: Cerf, 1965), 185; Karl August Fink, "The Western Schism and the Councils," in *From the High Middle Ages to the Eve of the Reformation,* trans. Anselm Biggs, vol. 4 of *History of the Church,* ed. Hubert Jedin and John Dolan (New York: Crossroad, 1982), 401–25, 443–87, especially 466–68; and Oakley, *Council over Pope?* 126–28. That Martin V made no distinction between periods of the council when he approved its decrees is noted in Isfried H. Pichler, *Die Verbindlichkeit der Konstanzer Dekrete: Untersuchungen zur Frage der Interpretation und Verbindlichkeit der Superioritätsdekrete "Haec sancta" und "Frequens,"* Weiner Beiträge zur Theologie 16 (Vienna: Herder, 1967), 79–81.

28. Gill, "The Fifth Session," 134; and his *Constance et Bâle-Florence,* Histoire des conciles oecuméniques 9 (Paris: Ed. de L'Orante, 1965), 111; Walter Brandmüller, *Das Konzil von Konstanz, 1414–1418,* 2 vols. (Paderborn: Schöningh, 1991), 1:319–20.

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of John of Torquemada (1388–1468) hold that it became truly ecumenical once it achieved the adhesion of all three obediences.[29]

The nature of the decree *Haec sancta* (1415), which declared that all must obey the council on questions of unity, faith, and reform, has been debated by scholars. Those who hold that it is a doctrinal statement about the limits of papal power include de Vooght and Hans Küng. Thomas Prügl notes that the theologians and fathers at Basel saw *Haec sancta* as implicitly containing doctrine that had become part of the constitution of the church.[30] Oakley sees the decree as applying only to emergency situations.[31] While acknowledging that the decree has doctrinal implications, Isfried H. Pichler and Thomas Morrissey characterize it as a disciplinary decree valid for all times.[32] That *Haec sancta* was an emergency disciplinary decree crafted for and applicable to the specific situation prevailing at Constance and to subsequent similar crises is held by Hubert Jedin, Mario Fois, and Walter Brandmüller.[33] That the decree was not revolutionary but in keeping with medieval canonical thinking on how to deal with an heretical pope has been demonstrated in a series of studies by Brian Tierney.[34] Thomas Prügl has shown that in the decades following Constance, *Haec sancta* was seen even by theologians critical of councils as a genuinely catholic teaching based on tradition.[35] Debates center on how to interpret it properly in accord with canonical teaching on papal power.

Whether the decree *Haec sancta* needed to be confirmed by the pope in order to be binding and whether and how it was papally approved are questions still commanding the attention of scholars. Fink, Küng, and Jedin have all observed that Constance did not consider papal approval necessary.[36] The requirement

29. Fois, "Concili," 172; and Brandmüller, "Konstanz, Konzil von (1414–1418)," in *Theologische Realenzyklopädie* (Berlin: De Gruyter, 1990), 19:529–35, at 532 (*zu einem de facto allgemeinen Konzil*).

30. de Vooght, *Pouvoirs,* 187; Hans Küng, *Structures of the Church,* trans. Salvatore Attanasio (New York: Thomas Nelson & Sons, 1964), 268–319, especially 284–88; and Thomas Prügl, "Il decreto di superiorità *Haec sancta* di Constanza e la sua ricezione al concilio di Basilea," in *Il ministero del Papa in prospettiva ecumenica: Atti del Colloquio, Milano, 16–18 aprile 1998,* ed. Antonio Acerbi (Milan: Vita e Pensiero, 1999), 111–28, at 118–20.

31. Oakley, *Council over Pope?* 105–11, 154.

32. Pichler, *Verbindlichkeit,* 48–51; Morrissey, "Great Western Schism," 501.

33. Hubert Jedin, "Concilio episcopale o parlamento della Chiesa? Un contributo all' ecclesiologia dei concili di Costanza e Basilea," in *Chiesa della fide, Chiesa della storia: Saggi scelti,* trans A. Destro, A. M. Fidora, and G. Poletti (Brescia: Morcelliana, 1972), 127–55, at 133–34; Fois claims that *Haec sancta* was legislated only for the situation at Constance, but the later enactment of *Frequens* (1417) gave it a validity beyond Constance—see his "Concili," 185–90; Brandmüller, "Konstanz, Konzil von," 531; and his "Besitzt das Konstanzer Dekret *Haec sancta* dogmatische Verbindlichkeit?" AHC 1 (1969): 96–113, at 109–10.

34. E.g., Brian Tierney, *Foundations of the Conciliar Theory: The Contributions of the Medieval Canonists from Gratian to the Great Schism* (Cambridge: Cambridge University Press, 1955), especially 220–37 (Zabarella) and 245–47.

35. Thomas Prügl, "*Antiquis iuribus et dictis sanctorum conformare:* Zur antikonziliaristischen Interpretation von *Haec sancta* auf dem Basler Konzil," AHC 31 (1999): 72–143, at 74.

36. Küng, *Structures,* 271–72 (citing Fink), 275–76; and Jedin, "Concilio episcopale," 137.

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of papal approbation dates from the Middle Ages and can be found in a passing comment in a letter of Paschal II (1099–1118) that was incorporated into the decretals published by Gregory IX in 1234.[37] Brandmüller claims that *Haec sancta* did not need the approval of Martin V (r. 1417–31) because it was issued during *sede vacante* when there was no higher authority in the church.[38] Fink also holds that the pope's approval was not needed or sought, and that Martin's statement on April 22, 1418, approving everything decided by the council *conciliariter* applied to the condemnation of Falkenberg and not to *Haec sancta*.[39] That Martin V gave an implicit approval of *Haec sancta* by his various statements and bulls is asserted by Küng.[40] Those who claim that Martin V gave neither an implicit nor a formal explicit approval that was required include Gill and Fois.[41] Jedin can find no evidence that Martin V explicitly ratified this decree, but he sees in the bull *Dudum sacrum* of Eugenius IV an acceptance of it.[42]

Other topics related to Constance that have attracted the attention of scholars include the attempted rehabilitation or explanations for the prosecution of John Hus (c. 1369–1415) at Constance, the condemnation of the teachings of Johannes Falkenberg, the efforts of Metropolitan Gregory Camblak at Constance to unite the church of Kiev with Rome, sermons preached at the council, and the reforms it enacted.[43] The organizational structures that developed at the council (origins

37. Küng, *Structures,* 271; c. 4, X de electione et electi potestate, I, 6, in *Corpus iuris canonici,* 2nd ed., ed. Emil Ludwig Richter and Emil Friedberg, pars secunda: *Decretalium collectiones* (Leipzig: B. Tauchnitz, 1879), col. 50: "quum omnia concilia per Romanae ecclesiae auctoritatem et facta sint, et robur acceperint et in eorum statutis Romani Pontificis patenter excipiatur auctoritas."

38. Brandmüller, "Konstanz, Konzil von," 533.

39. Karl August Fink, "Zur Beurteilung des Grossen Abendländischen Schismas," *Zeitschrift für Kirchengeschichte* 73 (1962): 335–43, at 339–40.

40. Küng, *Structures,* 271–81.

41. Gill, "The Fifth Session," 134–37 ("In set terms, certainly not. Indirectly? Almost certainly not," 136); and his *Constance,* 112–14; Fois, "Concili," 191–99.

42. Jedin, "Concilio episcopale," 137–38.

43. Paul de Vooght, *L'hérésie de Jan Hus,* 2nd ed., 2 vols. (Louvain: Bureaux de la Revue, Bibliothèque de l'Université, Publications Universitaires de Louvain, 1975). See also the critique of the scholarship of de Vooght and other scholars by Matthew Spinka in his *Jan Hus at the Council of Constance,* trans. with annotations and intro. by Matthew Spinka, Records of Civilization: Sources and Studies 73 (New York: Columbia University Press, 1965), xi–xii. For a balanced explanation of the prosecution of Hus, see Francis Oakley, *The Western Church in the Later Middle Ages* (Ithaca: Cornell University Press, 1979), 197–203. For the intellectual currents behind the condemnation of Falkenberg, see Stefan Kwiatkowski, *Der Deutsche Orden im Streit mit Polen-Litauen: Eine theologische Kontroverse über Krieg und Frieden auf dem Konzil von Konstanz (1414–1418),* Beitrag zur Friedensetik 32 (Stuttgart: Kohlhammer, 2000). For the attempt of Gregory Camblak, metropolitan of Kiev, to unite his church with Rome at the council, see Walter Brandmüller, "Martin V. und die Griechenunion: Der *Sermo in presentacione cuiusdam episcopi Ruteni* des Magisters Mauricius Rvačka in Konstanz, 25. Februar 1418," *Studia gratiana* 29 (1998): 133–48. For four papalist sermons preached at Constance, see Thomas M. Izbicki, "Reform and Obedience in Four Conciliar Sermons by Leonardo Dati, O.P.," in *Reform and Renewal in the Middle Ages and the Renaissance: Studies in Honor of Louis Pascoe, S.J.,* ed. Thomas M. Izbicki and Christopher M. Bellitto, Studies in the History of Christian Thought 96 (Leiden: Brill, 2000), 174–92; for an ardent call for reform by an Oxford professor of theology, see

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of the system of nations, a prosopography of its membership, voting rights, etc.) are still fertile areas for investigation. Given that the council was the largest gathering of important persons from various lands in the late Middle Ages and was visited by leading humanists, it is surprising that these cultural interactions have yet to be seriously studied.

The Council of Pavia-Siena, which does not appear on the standard list of general councils, had been ignored by modern scholars until Walter Brandmüller published a monograph on it in 1968 that was followed in 1974 by a collection of sources (the six conciliar decrees, forty-eight papal letters, four sermons, and the protocol of Guillermo Agramunt, the Spanish notary). Because the council was convoked by a legitimate pope, Martin V, had representatives from all five "nations" present, and issued decrees that were confirmed by the pope, Brandmüller argues that the council deserves to be ranked among the church's legitimate general councils.[44] Brandmüller's study also shows how Pope Martin maintained a close watch on and control of the council, how Alfonso V of Aragon (r. 1416–58) tried to pressure the pope into approving his succession to the Neapolitan throne by supporting the election in 1423 of Clement VIII (r. 1423–29, d. 1446) as successor to the Avignonese pope Benedict XIII and calling upon the council to decide who was the true pope, and how the papal legates staunchly resisted the teachings of *Haec sancta.* The legates formally closed the council stealthily, without the consent of the conciliar fathers, who were busy watching the carnival games in Siena. Based primarily on the documents published by Brandmüller, Maureen Miller has published a study of the 177 participants at the council.[45] Thomas Ferguson portrays the council as an important link in preserving the conciliar ideal after Constance, but also as a warning about the vulnerability of councils organized along national lines to manipulation by papal legates.[46] Much work remains to be done on the careers and ideas of individual participants at the Council of Pavia-Siena. John-Jerome of Prague is among the few studied in any depth.[47]

The Council of Basel-Lausanne has not been well studied. The first and only

Chris L. Nighman, "*Accipiant Qui Vocati Sunt:* Richard Fleming's Reform Sermon at the Council of Constance," *Journal of Ecclesiastical History* 51 (2000): 1–36. On the council's reforms, see Phillip H. Stump, *The Reforms of the Council of Constance (1414–1418),* Studies in the History of Christian Thought 53 (Leiden: Brill, 1994).

44. Walter Brandmüller, *Das Konzil von Pavia-Siena, 1423–1424,* 2 vols. (Münster: Aschendorff, 1968–74), 1:266–67 (for the arguments that it was a legitimate council).

45. Maureen C. Miller, "Participants at the Council of Pavia-Siena, 1423–1424," AHP 22 (1984): 389–406.

46. Thomas Ferguson, "The Council of Pavia-Siena and Medieval Conciliarism," *Journal of Religious History* 25 (2001): 1–19, at 4, 19.

47. See William Patrick Hyland, "John-Jerome of Prague: Portrait of a Fifteenth-century Camaldolese," *American Benedictine Review* 46 (1995): 308–34; and his "Reform Preaching and Despair at the Council of Pavia-Siena (1423–1424)," *Catholic Historical Review* 84 (1998): 409–30.

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comprehensive modern scholarly history of the council based on the sources was published as volume 7 (1874) by Hefele in his *Conciliengeschichte.*[48] The paucity of scholarly surveys is attributable in part to the failure to publish all the sources for the council. An interest in the Hussite question seems to have led the Protestant František Palacký and others to begin the publication in 1857 of the multivolume *Monumenta conciliorum generalium seculi decimi quinti,* sponsored initially by the Imperial Academy of Sciences in Vienna and later by the Historische und Antiquarische Gesellschaft in Basel (1873–1935). Another project supported by the Basel group was the collection of histories, diaries, acta, and protocols launched by the son of a Lutheran pastor, Johannes Haller (1865–1947), and published as *Concilium Basiliense: Studien und Quellen zur Geschichte des Concils von Basel* (1896–1936). The collections begun by Palacký and Haller were never completed. Other sources, ranging from diplomatic correspondence to the acta of the German diets, treatises, sermons, letters, and histories have been published apart from these classical collections.[49] Given the mass of materials available, a number of studies on specialized topics have appeared, produced mostly by Catholic scholars interested in theological questions.

Whether the Council of Basel, or how much of it, qualifies as a general council has been much debated by Catholics. French scholars espousing Gallicanism and Germans Febronianism, reflecting in part their nations' reception of some decrees of Basel in 1438 and 1439 respectively, tended to accept the council as legitimate.[50] That it ceased to be an ecumenical council once it was translated to Ferrara in 1437 was maintained in the fifteenth century by John of Torquemada, Antoninus of Florence (1389–1459), and Domenico dei Domenichi (d. c. 1478), and in the sixteenth century by Domenico Giacobazzi, Thomas de Vio, and Leo X at Lateran V. In this century the inclusion of some of its decrees, up to the twenty-fifth session and its translation to Ferrara, in the collection *Conciliorum oecumenicorum decreta* (1962) of Giuseppe Alberigo and Hubert Jedin indicated and encouraged a wide acceptance of this viewpoint.[51] Because the papal bull *Dudum sacrum* of December 15, 1433, which recognized as legitimate the council up until that time, was not fol-

48. On the early historiography, see Helmrath, *Das Basler Konzil,* 6–14; and Müller, "L'erudition gallicane."

49. For surveys of the sources, see A. J. Meijknecht, "Le concile de Bâle, aperçu général sur ses sources," *Revue d'histoire ecclesiastique* 65 (1970): 465–73; and appendix D: "Sources and Studies concerning the Council of Basel (1431–1449)," in Joachim W. Stieber, *Pope Eugenius IV, the Council of Basel, and the Secular and Ecclesiastical Authorities in the Empire: The Conflict over Supreme Authority and Power in the Church,* Studies in the History of Christian Thought 13 (Leiden: Brill, 1978), 378–404; on Haller, see Bautz and Bautz, *Kirchenlexikon* 2:494.

50. Helmrath, *Das Basler Konzil,*. 8. The Febronian Ignaz Heinrich von Wessenberg (1774–1860) included Basel in his five-volume history of church assemblies (1840) and thus provoked Hefele's studies as an ultramontane response.

51. Bäumer, "Zahl," 305–7; Stieber, *Pope Eugenius,* 382.

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lowed by a bull recognizing the subsequent actions of the council, some scholars accept the council only until the sixteenth session on February 5, 1434, when the papal bull was formally incorporated into the conciliar acta.[52] Others, in the tradition of Nicholas of Cusa (1401–64), Thomas Campeggio (d. 1564), and Robert Bellarmine, reject the council completely, claiming that the bull *Dudum sacrum* had not been freely issued by Eugenius IV, who was under enormous pressures to avoid a new schism.[53]

The proper interpretation of *Dudum sacrum* is discussed by scholars. Hefele, Valois, and Fois argue that the bull approved only the existence of the council, but not its decrees, as is evidenced by the pope's invoking his own authority to appoint the council's presidents and by the presidents' (as legates acting in his name) refusal to confirm explicitly *Haec sancta,* reissued by Basel on February 15, 1432, and on June 26, 1434. Arguing from Eugenius's capitulation in replacing his words *volumus et contentamur* of the August 1st version with the conciliarly dictated phrase *decernimus et declaramus* of the final December 15th version of *Dudum sacrum,* which Eugenius understood to signify that he approved all the council's decrees, Pichler admits that the bull did approve *Haec sancta,* but was ultimately invalid because not freely issued by the pressured pope.[54] That the fathers at Basel feared that the bull had not confirmed *Haec sancta* is evidenced by their reaffirmation of it at the eighteenth session on June 26, 1434. That *Dudum sacrum* approved both the existence of the council and all of its decrees and was validly issued by the pope is held by de Vooght.[55]

In their reaffirmations in 1432 and 1434 of the decree *Haec sancta* of Constance, the fathers of Basel gave it new meaning. Because the decree was confirmed in a context when there was no serious dispute between rivals for the papal office, the decree could no longer be seen as a mere emergency measure to resolve a controversy; rather, according to de Vooght and Fois, it now became a universal law valid for all time on the authority of a council to control even a legitimate pope's misconduct, such as Eugenius IV's efforts to close the council. The decree was given clearly doctrinal significance at the thirty-third session on May 16, 1439, in the decree *Sacrosancta,* which declared as a matter of faith the supreme authority in the church of a general council.[56] If an indirect approval of the reaffirmation of *Haec sancta* of 1432 was implied by *Dudum sacrum,* any explicit papal confirmation of it or of the decree of 1434

52. Helmrath, *Das Basler Konzil,* 10–11.

53. Bäumer, "Zahl," 305–8 (Cusanus, Campeggio, and Bellarmine all changed their minds about Basel); Leo X called it a "quasi-council"—Mansi, 32:967; Pichler, *Verbindlichkeit,* 112–13; and Fois, "Concili," 200–1.

54. Fois, "Concili," 204–7; Brandmüller, "Besitzt," 105; Pichler, *Verbindlichkeit,* 112–13.

55. de Vooght, *Pouvoirs,* 85–95.

56. Ibid., 186; Fois, "Concili," 200; Jedin, "Concilio episcopale," 134–35.

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is rejected by Pichler and Fois.[57] Eugenius IV in the bull *Moyses vir Dei* of the seventh session of the Council of Ferrara-Florence-Rome on September 4, 1439, explicitly condemned *Sacrosancta* as contrary to the sound sense of the Council of Constance itself and he even questioned the validity of the decree *Haec sancta* of Constance because it was approved "by only one of the three obediences after the flight of John XXIII . . . at a time of schism"—thus formally adopting Torquemada's view.[58]

Newer areas of research deal with such topics as representation, consensus, and reception. Dean Loy Bilderback has studied the membership of the council based on the records of the oath ceremony for incorporation and has found that of the 3,326 incorporated, only 463 were procurators for someone else and 88.7 percent of these date from the early period of the council.[59] Hans-Jörg Gilomen has calendared the records of the judges of the Rota at the council, listing according to dioceses the cases heard and providing a general index of names.[60] Antony Black has provided a detailed analysis of the shifting composition of the council's membership. Bishops and abbots with their proxies constituted 56 percent of the membership in April 1433, contrary to Gill's claims that they were neither numerous nor powerful. While the numbers and influence of university clergy steadily rose, they constituted less than half the membership in 1440. They provided the council with conciliar propaganda but were not important for the council's decision making. Greater influence on policy making came from the nationalist and corporatist mentalities of the middle-level clergy who predominated. A comparative study of representation at the councils of the early fifteenth century was provided by Joseph Gill. The French delegation has been studied by Heribert Müller, the Scottish by J. H. Burns, and the English and Irish by A. N. E. D. Schofield.[61] Prominent individual members, their careers, ideas, and actions have also been studied: for example, John of Segovia (1393–1458) and Heimerich van de Velde

57. Pichler, *Verbindlichkeit,* 107–13; Fois, "Concili," 206–8.

58. de Vooght, *Pouvoirs,* 96–97; COD, 1:531–33.

59. Dean Loy Bilderback, *The Membership of the Council of Basel* (Ph.D. diss., University of Washington, Seattle, 1966); and his "Proctorial Representation and Conciliar Support at the Council of Basle," AHC 1 (1969): 140–52, at 142–44; Helmrath, *Das Basler Konzil,* 75.

60. Hans-Jörg Gilomen, *Die Rotamanualien des Basler Konzils: Verzeichnis der in Handschriften der Basler Universitätsbibliothek behandelten Rechtsfälle,* ed. Deutschen Historischen Institut in Rom (Tübingen: Niemeyer, 1998).

61. Antony Black, "The Universities and the Council of Basle: Ecclesiology and Tactics," AHC 6 (1974): 341–51; and his *Council and Commune,* 32–45; Joseph Gill, "The Representation of the *Universitas fidelium* in the Councils of the Conciliar Period," in *Councils and Assemblies,* ed. G. J. Cuming and Derek Baker, Studies in Church History 7 (Cambridge: Cambridge University Press, 1971), 177–95; Heribert Müller, *Die Franzosen, Frankreich, und das Basler Konzil (1431–1449),* 2 vols., Konziliengeschichte, Reihe B: Untersuchungen (Paderborn: Schöningh, 1990), 2:760–808; James Henderson Burns, *Scottish Churchmen and the Council of Basle* (Glasgow: J. S. Burns, 1962); A. N. E. D. Schofield, "England and the Council of Basle," AHC 5 (1973): 1–117, and "Ireland and the Council of Basle," *Irish Ecclesiastical Records* 107 (1967): 374–87. For a synthetic overview of the council's membership, see Helmrath, *Das Basler Konzil,* 70–176.

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(1395–1460) by Antony Black, Giuliano Cesarini (1389?–1444) by Gerald Christianson, Nicholas of Cusa (1401–64) by Giuseppe Alberigo, John of Torquemada (1388–1468) by Thomas M. Izbicki, John of Ragusa (1395–1443) by Petar Vrankić, and Heinrich Kalteisen (c. 1390–1465) by Thomas Prügl.[62] Prügl has also explored the theology of the office of bishop espoused at the council by John of Ragusa, John of Segovia, Nicholas of Cusa, and John of Torquemada, men whose views changed but who initially recognized that the bishops of their day lacked theological learning, needed the assistance of theologians, and were or were not the exclusive holders of immediate or delegated power in the church.[63] The speech (c. 1436) of a Greek supporting the council and the writings of two Italian lay opponents of the conciliarist teachings of Basel have recently been carefully examined.[64] Studies on the organizational structure given to the council are analyzed by Johannes Helmrath.[65] The council's relations with various secular rulers are also explored: for example, to the authorities of the empire by Joachim W. Stieber, to Bavaria by Werner Müller, and to Aragon by Winfried Küchler. In these studies the question of the council's reception is also addressed.[66] The reforms enacted by Basel and its rulings in the area of doctrine (e.g., the Compacts of Prague and Immaculate Conception) are in need of further research.[67]

Modern scholarship on the Council of Ferrara-Florence-Rome owes much to

62. Black, *Council and Commune,* 58–84 (van de Velde), 118–93 (Segovia); and his *Monarchy and Community: Political Ideas in the Later Conciliar Controversy, 1430–1450* (Cambridge: Cambridge University Press, 1970), 22–52 (Segovia); Gerald Christianson, *Cesarini, the Conciliar Cardinal: The Basel Years, 1431–1438,* Kirchengeschichtliche Quellen und Studien 10 (St. Ottilien: EOS-Verlag, 1979); Giuseppe Alberigo, *Chiesa conciliare: Identità e significato del conciliarismo,* Testi e ricerche di Scienze religiose 19 (Brescia: Paideia, 1981), 293–354 (Cusanus); Thomas M. Izbicki, *Protector of the Faith: Cardinal Johannes de Turrecremata and His Defense of the Institutional Church* (Washington, D.C.: The Catholic University of America Press, 1981); Petar Vrankić, "Die Grundzüge der Konzilstheologie des Johannes von Ragusa," AHC 30 (1998): 287–310; and Thomas Prügl, *Die Ekklesiologie Heinrich Kalteisens OP in der Auseinandersetzung mit dem Basler Konziliarismus: Mit einem Textanhang,* Veröffentlichungen des Grabmann-Instituts 40 (Paderborn: Schöningh, 1995).

63. Thomas Prügl, "*Successores Apostolorum:* Zur Theologie des Bischofsamtes im Basler Konziliarismus," in *Für euch Bischof mit euch Christ: Festschrift für Friedrich Kardinal Wetter zum siebzigsten Geburtstag,* ed. Manfred Weitlauff and Peter Neuner (St. Ottilien: EOS-Verlag, 1998), 195–217.

64. Kerstin Hajdú, "Eine Rede an die Basler Konzilväter und ihr unbekannter Autor, Demetrios von Konstantinopel," *Byzantinische Zeitschrift* 93 (2000): 125–32; Thomas Prügl, *Antonio da Cannara:* De potestate pape supra concilium generale contra errores Basiliensium: *Einleitung, Kommentar und Edition ausgewählter Abschnitte,* Veröffentlichungen des Grabmann-Institutes 41 (Paderborn: Schöningh, 1996); and Thomas A. Weitz, *Der Traktat des Antonio Roselli* De Conciliis ac Synodis Generalibus: *Historisch-kanonistische: Darstellung und Bewertung,* Konziliengeschichte, Reihe B: Untersuchungen (Paderborn: Schöningh, 2002).

65. Helmrath, *Das Basler Konzil,* 18–70.

66. Stieber, *Pope Eugenius,* 158–73, 184–86 (Acceptance of Mainz); Werner Müller, "Bayern und Basel: Studien zu Herzoghaus, Kirche und Konzil (1431–1449)," AHC 29 (1997): 1–164, 335–500; Müller, *Franzosen,* 2:808–39, for the Pragmatic Sanction of Bourges, 823–28; Winfried Küchler, "Alfonso V. von Aragon und das Basler Konzil," *Spanische Forschungen der Görresgesellschaft,* I. Reihe: *Gesammelte Aufsätze zur Kulturgeschichte Spaniens* 23 (1967): 131–46. See also the overview in Helmrath, *Das Basler Konzil,* 179–326.

67. For a survey of research on these topics, see Helmrath, *Das Basler Konzil,* 327–407; and Gerald Christianson, "Annates and Reform at the Council of Basel," in Izbicki and Bellitto, *Reform and Renewal,* 193–207.

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the work of Georg Hofmann, S.J. (1885–1956), whose efforts to make available the documents related to the council eventually led to the multifascicle critical edition of its acta, diaries, protocols, treatises, papal correspondence, and other material published by the Pontifical Oriental Institute of Rome under the title of *Concilium Florentinum* (1940–).[68] Among the helpers on this project was Joseph Gill, S.J. (1901–89) who took advantage of the material now in print to produce a synthetic work on the history of the council in 1959 that was followed by a life of Pope Eugenius IV, who presided over the council, by numerous other studies that were republished in two collections in 1964 and 1979, and by a briefer account of the council that appeared in 1965 in a popular series on councils.[69] Commemoration of the 550th anniversary of the bull of union, *Laetentur coeli* (1439), produced a host of studies, some of the more important of which are here surveyed.[70]

Two studies explored the iconography of the council. Analysis of Paolo Ucello's *Il Diluvio* in the cloister of Santa Maria Novella, where the pope resided, was provided by Eugenio Marino, who saw in the arks a reference to the rival Councils of Basel and Florence and identified Noah as Eugenius IV, the man in the window as Patriarch Joseph II, and the old man as Felix V.[71] Roger J. Crum argued against Ernst Gombrich and held that the fresco *The Journey of the Magi* of Benozzo Gozzoli in the chapel of the Medici Palace is a reference to the Council of Florence, which restored unity and peace to the church and whose celebration in Florence was considered a major triumph of Cosimo dei Medici.[72]

68. On Hofmann, see I. Ortiz de Urbina, "In memoriam: P. Giorgio Hofmann, S.J.," *Orientalia christiana periodica* 22 (1956): 389–92; his earlier edited collection on the council is *Documenta concilii florentini de unione orientalium,* Pontificia universitas gregoriana, Textus et documenta, series theologica 18, 19, 22 (Rome, 1935–36); the critical edition of the material on the Council of Ferrara-Florence-Rome is *Concilium Florentinum: Documenta et scriptores* (Rome: Pontificum Institutum Orientalium Studiorum, 1940–).

69. On Gill and his work, see Joseph A. Munitiz, "Joseph Gill, S.J. (1901–1989)," *Orientalia christiana periodica* 57 (1991): 5–10; Gill, *The Council of Florence* (Cambridge: Cambridge University Press, 1959); Gill, *Eugenius IV: Pope of Christian Union,* The Popes through History 1 (Westminster, Md.: Newman, 1961); Gill, *Personalities of the Council of Florence and Other Essays* (New York: Barnes & Noble, [1964]); *Church Union: Rome and Byzantium, 1204–1453,* Variorum Reprints CS 91 (Aldershot, U.K.: Ashgate, 1979).

70. Papers delivered at the conference sponsored by the Societas internationalis historiae conciliorum investigandae in 1990 have been published in volumes 21 (1989) and 22 (1990) of AHC; those by the Istituto di scienze religiose (Bologna) and the Académie des sciences religieuses (Brussels) in *Christian Unity: The Council of Ferrara-Florence, 1438/39–1989,* ed. Giuseppe Alberigo, Bibliotheca Ephemeridum Theologicarum Louviensium 97 (Louvain: Peeters, 1991)—hereafter cited as CU; and those by the Deputazione di storia patria per la Toscana as *Firenze e il concilio del 1439: Convegno di Studi, Firenze, 29 Novembre–2 Dicembre 1989,* 2 vols., ed. Paolo Viti, Biblioteca storica Toscana a cura della Deputazione di storia patria per la Toscana 29 (Florence: Olschki, 1994)—cited as *Firenze.* See also Johannes Helmrath, "Florenz und sein Konzil: Forschungen zum Jubiläum des Konzils von Ferrara-Florenz, 1438/39–1989," AHC 29 (1997): 202–16.

71. Eugenio Marino, "Il 'Diluvio' di Paolo Ucelli nel chiostro di Santa Maria Novella e i suoi (possibili) rapporti con il concilio di Firenze," *Firenze,* 317–87.

72. Roger J. Crum, "Roberto Martelli, the Council of Florence, and the Medici Palace Chapel," *Zeitschrift für Kunstgeschichte* 59 (1996): 403–17.

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Many studies were devoted to the participants at the council. Various delegations were studied for their membership and mentalities.[73] Concetta Bianca tried to determine the shifting attitudes of the cardinals toward the rival Councils of Basel and Florence.[74] Of the individual figures in the Greek delegation, most attention was given to the emperor's lay advisor George Gemistos Plethon (1355–1450) and to the antiunionist metropolitan of Ephesus, Mark Eugenikos (c. 1394–1444).[75] Of the Latins, Ambrose Traversari (1386–1439) has been shown to have played a central role as translator and interpreter of Greek texts, as someone sensitive to the Greeks' shyness, and as a sympathetic advocate of their positions.[76]

Three scholars have examined the liturgical aspects of the council. Richard Kay has identified the *ordo* used by Eugenius IV for the ceremonies of the Ferrara session of February 15, 1438.[77] Enrico Morini pointed out how the Greeks and Latins maintained separate liturgies, with the Latins prior to union denying Greeks use of their churches except for the funerals of Metropolitan Dionysius of Sardis and of Patriarch Joseph II, and some of the Greeks after the union resist-

73. The Greeks: Johannes G. Leontiades, "Die griechische Delegation auf dem Konzil von Ferrara-Florenz: Eine prospographische Skizze," AHC 21 (1989): 353–69; the Serbs (why they did not come): Jovanka Kalić, "La Serbie et le concile de Ferrara et de Florence," AHC 21 (1989), 370–79; the Romanians (composed of Greeks chosen by the emperor): Stefan C. Alexe, "L'Eglise orthodoxe roumaine et le concile de Ferrara-Florence (1438–1439)," CU, 613–21; the Armenians: Michel van Esbroeck, "La répresentativité de la délégation arménienne à Florence: De Sargis de Caffa a Naghash D'Amid," AHC 22 (19990): 131–45; the Copts and Ethiopians: Salvatore Tedeschi, "Etiopi e copti al concilio di Firenze," AHC 21 (1989): 380–407 and Giulio Basetti-Sani, "L'unione della Chiesa copta alessandrina alla Chiesa romana nel concilio di Firenze," CU, 623–43; the Latins: Johannes Helmrath, "Die lateinischen Teilnehmer des Konzils von Ferrara-Florenz," AHC 22 (1990): 146–98.

74. Concetta Bianca, "I cardinali al concilio di Firenze," *Firenze,* 147–74.

75. On Plethon: Christopher Montague Woodhouse, *George Gemistos Plethon: The Last of the Hellenes* (Oxford: Clarendon, 1986), 119–88; John Monfasani, "Platonic Paganism in the Fifteenth Century," in *Reconsidering the Renaissance: Papers from the Twenty-sixth Annual Conference* (Binghamton, N.Y.: Medieval and Renaissance Texts and Studies, 1992), 45–61; Hans Georg Thümmel, "Plethon und Florenz," AHC 21 (1989): 413–17; and John Monfasani, "Pletone, Bessarione e la processione dello Spirito Santo: Un testo inedito e un falso," *Firenze,* 833–59; on Eugenikos: Vadim Mironovitsch Lurje, "L'attitude de S. Marc d'Ephèse au débats sur la procession du Saint-Esprit à Florence: Ses fondements dans la théologie post-palamite," AHC 21 (1989): 317–33; Michael Kunzler, "Die florentiner Diskussion über das Filioque vom 14. Marz 1439 in Licht des Palamismus," AHC 21 (1989): 334–52; Basilio Petrà, "'Kata to phronema ton pateron': La coerenza teologica di Marco d'Efeso al concilio di Firenze," *Firenze,* 873–900.

76. Charles L. Stinger, *Humanism and the Church Fathers: Ambrogio Traversari (1386–1439) and Christian Antiquity in the Italian Renaissance* (Albany: State University of New York Press, 1977), 203–22; and his "Italian Renaissance Learning and the Church Fathers," in *The Reception of the Church Fathers in the West: From the Carolingians to the Maurists,* ed. Irena Backus, 2 vols. (Leiden: Brill, 1997), 473–510, here 488–491; Ida Giovanna Rao, "Ambrogio Traversari al concilio di Firenze," *Firenze,* 577–97; Lidia Caciolli, "Codici di Giovanni Aurispa e di Ambrogio Traversari negli anni del concilio di Firenze," *Firenze,* 599–647.

77. Richard Kay, "The Conciliar *Ordo* of Eugenius IV," *Orientalia christiana periodica* 31 (1965): 295–304, reprinted as entry XVI in his *Councils and Clerical Culture in the Medieval West,* Collected Studies Series C571 (Aldershot, U.K.: Ashgate, 1997).

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ing a joint celebration of the liturgy.[78] Miguel Arranz studied the effects of the council's decisions on Greek liturgical practices (e.g., azymes, epiclesis, rebaptizing, etc.).[79]

The theological debates at the council have been studied for their style and content. Francesco Tateo has shown how the Latins adopted a scholastic, combative, dialectical debating style that sought to vanquish an opponent, instead of the humanistic, respectful, courtly conversational format that aimed at a convergence of views.[80] The theological mentalities of both parties were described by Henry Chadwick and Nicolas Lossky.[81] How patristic texts were interpreted was studied by Vlassios Phidas. By studying how the writings of Cyril of Alexandria were used in the debate on *Filioque,* Bernhard Meunier demonstrates that most council fathers used *florilegia* and not the texts themselves, and he suggests that this was true for other patristic authors as well.[82] Debates over specific doctrines were examined: *Filioque* by Hans-Jürgen Marx, Vadim Luŕe, Michael Kunzler, and Luigi Chitarin; purgatory by André de Halleux; and papal primacy and other ecclesiological questions by Thomas M. Izbicki and Salvatore S. Manna.[83]

Why the union negotiated at the Council of Florence failed remains a topic of much interest to scholars. Mark Eugenikos's opposition to the union was due to his conviction that the Latin teaching on *Filioque* was in error because it was not based on the church fathers and ancient councils and was not in agreement with the Trinitarian teachings of St. Gregory Palamas (c. 1296–1359), who was considered an equal to the ancient fathers and doctors.[84] In addition to Eugenikos's opposition, the reasons for the failed union included the poor preparation for the council, the lack of a strong desire for union, active monastic propaganda against

78. Enrico Morini, "La Chiesa Greca ed i rapporti 'in sacris' con i Latini al tempo del concilio di Ferrara-Firenze," AHC 21 (1989): 267–96.

79. Miguel Arranz, "Circonstances et conséquences liturgiques du concile de Ferrara-Florence," CU, 407–27.

80. Francesco Tateo, "Ferrara e Firenze: La disputa umanistica nella città del concilio," *Firenze,* 493–508.

81. Henry Chadwick, "The Theological Ethos of the Council of Florence," CU, 229–39; Nicolas Lossky, "Climat théologique au concile de Florence," CU, 241–50.

82. Vlassios Phidas, "Herméneutique et patristique au concile de Florence," CU, 303–23; Bernhard Meunier, "Cyrille d'Alexandrie au concile de Florence," AHC 21 (1989): 147–74.

83. Hans-Jürgen Marx, *"Filioque" und Verbot eines anderen Glaubens auf dem Florentinum: Zur Pluralismus in dogmatischen Formeln,* Veröffentlichungen des Missionspriesterseminar St. Augustin bei Bonn 26 (St. Augustin-Niederpleis: Steyler, 1977); Luŕe, "Attitude de S. Marc"; Kunzler, "Florentiner Diskussion"; and Luigi Chitarin, "La questione del *filioque* al concilio di Ferrara-Firenze, 1438–1439," *Studi sull' Oriente cristiano* 3 (1999): 53–99, 5 (2001): 43–89; André de Halleux, "Problèmes de méthode dans les discussions sur l'eschatologie au concile de Ferrare et Florence," CU, 251–301; Thomas M. Izbicki, "The Council of Ferrara-Florence and Dominican Papalism," CU, 429–43; Salvatore Sabato Manna, "L'autorità del papa negli interventi del domenicano Giovanni di Montenero," CU, 445–69.

84. Kunzler, "Florentiner Diskussion," 334–52; Petrà, "Coerenza teologica," 873–900; Luŕe, "Attitude de S. Marc," 327–29.

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it, the divergent ecclesiologies of the two churches, the delayed Latin military assistance, the lack of efforts to promote union by those Greek clerics favoring it, the maintenance of Latin bishoprics in predominately Greek lands, and the hesitancy of Emperor John VIII to effect union, according to Anastasios Kallis.[85] Vittorio Peri emphasizes the problem of the pope appointing Latin bishops and transferring Greek-rite bishops in lands traditionally under the jurisdiction of the patriarch of Constantinople and forbidding Latin-rite Catholics to join the Greek rite. Despite the council's legitimization of Greek practices, subsequent popes tried to alter these to conform to the Roman Church's usage.[86]

The tangled history of the union with the church of Kiev has attracted much scholarly attention. Bishop Albert Houssiau attributes its failure to a combination of religious and political factors in Russia and Lithuania, and he faults the bishops who accepted union for not catechizing the laity, for not explaining to them in a logically coherent and acceptable way what the union entailed.[87] Waclaw Hryniewicz and Vitaly Borovov put blame on the continuing maintenance of parallel Latin and Greek hierarchies in the same localities, on Polish-Lithuanian backing for the Council of Basel and refusal to recognize Isidore of Kiev's status as a cardinal-legate, on Isidore's insensitivity to Orthodox suspicions in Moscow, on Rome's insistence that there is no salvation apart from union with the pope, on Latin bishops' insistence on rebaptizing the Orthodox, and on Alexander VI's demands that Metropolitan Joseph I Bolharynovič of Kiev be reordained and break off communion with the schismatic patriarch Joachim I of Constantinople.[88] A sociological study by the Jesuit Josef Macha attributed the failure to divergent ecclesiastical ideologies and organizations, fear of a loss of cultural identity, refusal to restore the Greek hierarchy in places like Corfù and Cyprus, Roman pretensions, and the restrained use of coercive power by the state.[89] Ihor Mončak has a much rosier view of Florence, claiming it "can serve as a model for all mutual relations and unionistic endeavors for all time" because it allowed each church to retain intact its own doctrines, practices, and structures. Problems occurred because of fundamentally different ways of understanding universal jurisdiction and local

85. Anastasios Kallis, "Rezeption und Verwerfung der Florentiner Union," CU, 573–92.

86. Vittorio Peri, "La lettura del concilio di Firenze nella prospettiva unionistica romana," CU, 593–611.

87. Albert Houssiau, "Réception et rejet d'un consensus conciliaire: Quel facteurs on joué pour ou contre la réception de la déclaration d'union entre Latins et Grecs à Florence," CU, 509–20.

88. Waclaw Hryniewicz, "The Florentine Union, Reception and Rejection: Some Reflections on Unionist Tendencies among Ruthenians," CU, 521–54; Vitaly Borovov, "The Destiny of the Union of Florence in Poland and the Great Lithuanian Principality (Byelorussia and Ukraine)," CU, 555–71.

89. Josef Macha, *Ecclesiastical Unification: A Theoretical Framework Together with Case Studies from the History of Latin-Byzantine Relations,* Orientalia christiana analecta, 198 (Rome: Pontificum Institutum Orientalium Studium, 1974), 122–43.

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autonomy that led at times to "uniformitarian" coercion rather than respectful tolerance in liturgical practices, theological formulations, and juridic norms.[90]

The Council of Pisa-Milan-Asti-Lyon (1511–12), Pisa II, is one of the least studied councils, in part because it did little more than occasion a series of theologico-canonical treatises on the power of a pope and council and provoked the calling of the Fifth Lateran Council (1512–17), which defeated it. Another reason for the paucity of scholarly studies is the dearth of published source material on the council. The principal primary source is the acta of the council compiled by the council's secretary Zaccaria Ferreri and published by the council's order in two parts in Paris by Jean Petit on August 23, 1512 (ending with session 8 in Milan on April 21, 1512), and sometime after November 1, 1512 (session 9 in Asti of June 12, session 10 in Lyon of July 10, and an anniversary celebration in Lyon of November 1, 1512). In 1612 the first part was reprinted with a royal privilege in Paris with minor variants by "Melchior Mondiere."[91] While the collection of Mansi failed to reproduce the acta of Pisa, it did publish some documents related to the council.[92] In 1910 Eugen Guglia published the nine consistorial *vota* of Cardinal Raffaele Riario on the deprivation and rehabilitation of the Pisa cardinals.[93] Documents in the Archivio di Stato of Florence relative to the council have been calendared by Augustin Renaudet and published in 1922. A variety of documents related to the healing of the Pisan schism were published as appendixes to my study of 1984 and 1993.[94]

A number of general studies have appeared in the last century or so. L. Sandret in 1883 published an article that provided an overview of the council based principally on the council's acta. Joseph Hergenröther (1824–90) treated the council in

90. Ihor Mončak, *Florentine Ecumenism in the Kyivan Church,* Opera universitatis catholicae ucrainorum 63–64 (Rome, 1987), 140–330.

91. A copy of the rare *Promotiones et progressus sacrosancti pisani concilii moderni indicti et incohati anno domini M.D.XI.* [Paris: Jean Petit, August 23, 1512], sigs. Ir–[XLI]v, and *Decreta sacrosanctae tertiae pisanae Synodi praelibatae de eius e Mediolano translatione* [Paris: Jean Petit, 1512?], sigs. A[i]r–A[iii]v, printed in part on parchment and repeatedly autographed after each session by the council's secretary Zaccaria Ferreri for *Promotiones* and by Ferreri and Nicolas Chalmot, protonotary of the council, for *Decreta* that is printed on paper, is preserved in the Vatican Library as R. G. Concilii II 55. For a description of these acta, see Hefele, *Histoire des conciles,* 8/1:323n5; Minnich, "First Printed Editions," 452–54, 459–60; and Augustin Renaudet, *Préréforme et humanisme à Paris pendant les premières guerres d'Italie (1494–1517),* 2nd ed. (Paris:Librairie d'Argences, 1953; repr., Geneva: Slatkine, 1981), xxxi, nos. 49, 49², 544n4. *Promotiones* is reprinted in *Acta Primi Concilii Pisani.* The *Promotiones* have their own pagination (1–206).

92. Mansi, 32:561–78 (convocations of Pisa, monitorium of Julius II against Pisa, etc.), and 35.157–67 (bull, letter, etc.).

93. Eugen Guglia, "Zur Geschichte des zweiten Conciliums von Pisa (1511–12)," *Mitteilungen des Instituts für Österreichische Geschichtsforschung* 31 (1910): 593–610, vota on 597–607.

94. Augustin Renaudet, *Le concile gallican de Pise-Milan: Documents florentins (1510–1512)* (Paris: Champion, 1922); Nelson H. Minnich, "The Healing of the Pisan Schism (1511–13)," AHC 16 (1984): 59–192, reprinted with additional appendixes as entry II in his *The Fifth Lateran Council (1512–17): Studies on Its Membership, Diplomacy, and Proposals for Reform,* Variorum Collected Studies Series CS 392 (Aldershot, U.K.: Ashgate, 1993).

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passing in his history of the councils from Basel to Trent for the Hefele series in 1887. In his classic study of pre-reform and humanism in Paris (1916, rev. 1953), Augustin Renaudet used documents in the Bibliothèque nationale de Paris and Florentine Archives to provide a fuller history of the council and its supporters in Paris. Olivier de la Brosse based his brief treatments of the council primarily on Hergenröther and Sandret. In his study (1997) on post-Basel conciliarism and the papacy based on recent literature, Aldo Landi has devoted a substantial portion to the Council of Pisa, which he sees as the last council to attempt to implement the vision of a conciliar church, but even in the defeat of its institutional manifestation the theory continued to find supporters.[95] Remigius Bäumer and Francis Oakley have shown the survival of conciliarist ideas in England under Henry VIII, who had opposed the Pisan Council and supported its rival Lateran V.[96]

Specialized studies on Pisa II have been of three types. Walter Ullmann has examined the legal basis for the council and found it solid until Julius II convoked and then held his rival Lateran Council.[97] Various authors and their treatises written in defense of or attacking the Pisan Council and the conciliarist thesis on which it was based have been studied: Giovanni Gozzadini by Hubert Jedin; Domenico Giacobazzi by Josef Klotzner; Jean Gerson, Thomas di Vio (Cajetan), and Jacques Almain by Olivier de la Brosse; Almain and John Mair by Francis Oakley; Gerson, Tudeschis, Antoninus of Florence, John of Torquemada, Almain, and Mair by Remigius Bäumer; Antonio Trombetta by Franco Todescan; Dominican writers by Ulrich Horst; Girolamo Massaino by Nelson H. Minnich; and Cajetan, Almain, and Mair by J. H. Burns and Thomas M. Izbicki.[98] The third approach is

95. L. Sandret, "Le concile de Pise (1511)," *Revue des questions historiques* 34 (1883): 425–56; Joseph Hergenröther authored volume 8, part 1, in Hefele-Leclercq, *Histoire des conciles,* 323–35, 357–60; Renaudet, *Préréforme,* xiv–xv, 539–56; Olivier de la Brosse, *Le pape et le concile: La comparaison de leur pouvoirs à la veille de la Réforme,* Unam sanctam 58 (Paris: Cerf, 1965), 57–65, and "Lateran V," in de la Brosse et al., *Lateran V et Trente,* Histoire des conciles oecuméniques 10 (Paris: Ed. de l'Orante, 1975), 38–40, 42–44; and Aldo Landi, *Concilio e papato nel Rinascimento (1449–1516): Un problema irrisolto,* Studi storici (Turin: Claudiana, 1997), 205–361.

96. Remigius Bäumer, "Die Konstanz Dekrete *Haec sancta* und *Frequens* im Urteil katholischer Kontroverstheologen des 16. Jahrhunderts," in *Von Konstanz nach Trient: Beiträge zur Geschichte der Kirche von den Reformkonzilien bis zum Tridentinum. Festgäbe für August Franzen,* ed. Remigius Bäumer (Paderborn: Schöningh, 1972), 547–74, at 551; Francis Oakley, "Constance, Basel and the Two Pisas: The Conciliarist Legacy in Sixteenth- and Seventeenth-Century England," AHC 26 (1994): 1–32, and his "Conciliarism in England: St. Germain, Starkey, and the Marsiglian Myth," in Izbicki and Bellitto, *Reform and Renewal,* 224–39, at 227, 229–30.

97. Walter Ullmann, "Julius II and the Schismatic Cardinals," in *Schism, Heresy, and Religious Protest,* ed. Derek Baker, Studies in Church History 9 (Cambridge: Cambridge University Press, 1972), 177–93, especially 180–81, 188–89.

98. Hubert Jedin, "Giovanni Gozzadini, ein Konziliarist am Hofe Julius' II.," *Römische Quartalschrift* 47 (1939): 193–267, and his "Nochmals der Konziliarist Gozzadini," *Römische Quartalschrift* 61 (1966): 88–93; Josef Klotzner, *Kardinal Dominikus Jacobazzi und sein Konzilswerk: Ein Beitrag zur Geschichte der konziliaren Idee,* Analecta gegoriana 45, series Facultatis historiae ecclesiasticae, sectio B, no. 6 (Rome: Pontificia Universitas Gregoriana, 1948); de la Brosse, *Pape et concile;* Francis Oakley, "Almain and Major: Conciliar Theory on the Eve of the Refor-

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the study of the motivations and actions of prominent persons associated with the council: Bishop François d'Estaing by Camille Belmon, Bishop Guillaume Briçonnet by Michel Veissière, Cardinal Bernardino López de Carvajal by Nelson H. Minnich, Emperor Maximilian I by Hermann Wiesflecker, and King Louis XII by Frederic J. Baumgartner.[99]

Modern scholarship on the Fifth Lateran Council can be dated to the study of Josef Hergenröther, professor of church history and canon law at Würzburg and consultant to Vatican I, whom Hefele, on becoming bishop of Rottenberg in 1869 and considering other candidates to complete his *Conciliengeschichte,* finally commissioned in 1875. Hergenröther's thoroughness in placing Lateran V in the wider context of religious and secular history when treating the council in volume 8, published in 1887, was admired together with his erudition. He enriched his account by transcribing in appendixes the few surviving working papers of the council to be found in the Vatican Archives.[100] Hefele later complained that he had produced a colossal work that was so overwritten that the task of completing the series could go on ad infinitum. Indeed, Hergenröther brought his survey up to the Council of Trent, but never got to the council itself before he died in 1890.[101]

The publication of new source material laid the groundwork for fresh interpretations of the council. For many years the only significant primary sources available, other than the del Monte's 1521 acta and some diplomatic correspondence from the archive in Lille published by Jean Godefroy in 1712, were vari-

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mation," *American Historical Review* 70 (1965): 673–90, and his "Conciliarism in the Sixteenth Century: Jacques Almain Again," *Archiv für Reformationsgeschichte* 67 (1977): 111–32; Remigius Bäumer, *Nachwirkungen des konziliaren Gedankens in der Theologie und Kanonistik des frühen 16. Jahrhunderts,* Reformationsgeschichtliche Studien und Texte 100 (Münster: Aschendorff, 1971); Franco Todescan, "Fermenti gallicani e dottrine anti-conciliariste al Lateranense V: Un capitolo della teologia politica del secolo XVI," in *Cristianesimo, secolarizzazione, e diritto moderno,* ed. Luigi Lombardi Vallauri and Gerhard Dilcher, Per la storia del pensiero giuridico moderno 11/12 (Milan: Giuffré, 1981), 567–607; Ulrich Horst, *Zwischen Konziliarismus und Reformation: Studien zur Ekklesiologie in Dominikanerorden,* Dissertationes Historicae, Fasciculus 22 (Rome: Istituto Storico Domenicano, 1985); Nelson H. Minnich, "Girolamo Massaino: Another Conciliarist at the Papal Court, Julius II to Adrian VI," in *Studies in Catholic History in Honor of John Tracy Ellis,* ed. Nelson H. Minnich, Robert B. Eno, and Robert F. Trisco (Wilmington, Del.: Glazier, 1985), 520–65; *Conciliarism and Papalism,* ed. J. H. Burns and Thomas M. Izbicki, Cambridge Texts in the History of Political Thought (Cambridge: Cambridge University Press, 1997).

99. Camille Belmon, *Le bienheureux François d'Estaing, évêque de Rodez* (Albi: Orphelins-Apprentis, 1924); Michel Veissière, *L'évêque Guillaume Briçonnet (1470–1534): Contribution à la connaissance de la Réforme catholique à la veille du concile de Trente* (Provins: Société d'Histoire et d'Archéologie, 1986); Nelson H. Minnich, "The Role of Prophecy in the Career of the Enigmatic Bernardino López de Carvajal," in *Prophetic Rome in the High Renaissance Period: Essays,* ed. Marjorie Reeves (Oxford: Clarendon, 1992), 111–20; Hermann Wiesflecker, *Kaiser Maximilian I: Reich, Österreich, und Europa an der Wende zur Neuzeit,* 5 vols. (Munich: Oldenbourg, 1971–86); and Frederic J. Baumgartner, *Louis XII* (New York: St. Martin's, 1994).

100. Carl Joseph von Hefele, *Conciliengeschichte nach den Quellen bearbeitet,* vol. 8: *Der Fortsetzung,* part 1 by Josef Hergenröther (Freiburg: Herder, 1887), 810–31, 845–55.

101. Rudolf Reinhardt, "Hefeles *Konziliengeschichte* im Lichte seiner Korrespondenz mit Benjamin Herder," in *Konzil und Papst, Historische Beiträge zur Frage der höchsten Gewalt in der Kirche. Festgabe für Hermann Tüchle,* ed. Georg Schwaiger (Paderborn: Schöningh, 1975), 543–83, at 556–65.

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ous excerpts from later copies of the diary of the papal and council's master of ceremonies, Paride de Grassi (c. 1450–1528), published by Odorico Rainaldi in 1663, by Johannes Joseph Ignaz von Döllinger in 1882, and by Pio Delicati and Mariano Armellini in 1884.[102] In 1982 Marc Dykmans published a transcription, based on an autograph copy of the diary, of all the sections related to the council.[103] The opinions relative to Lateran V that were rendered in the sacred consistory by the dean of the sacred college and head of the conciliar reform deputation, Cardinal Raffaele Riario (c. 1460–1521), were described in a 1905–6 article by Eugen Guglia and transcribed as appendixes to a 1969 and 1993 article by Minnich.[104] Of interest to scholars are the reports of the Venetian ambassadors in Rome incorporated into Marino Sanudo's famous diaries, published at the end of the nineteenth century, of the French ambassador Claude de Seyssel, contained in appendixes to his biography by Alberto Caviglia (1928), and of the Aragonese representative Jeronimo Vich, transcribed in the two-volume study by the Baron de Terrateig (1963).[105] Various proposals for the council's consideration have also been published: the *Libellus* (1513) of Paolo Giustiniani and Pietro Querini in Latin (1773) and an Italian translation (1995), the *De reformandis moribus oratio* of Gianfrancesco Pico della Mirandola included in different collections, the recommendations of the Spanish bishops and king by José M. Doussinague in 1946 and by José Goñi Gaztambide in 1974, and the memorandum of Stefano Taleazzi by Minnich in 1995–96.[106]

102. Nelson H. Minnich, "Paride de Grassi's Diary of the Fifth Lateran Council," AHC 14 (1982): 370–460, here 372, reprinted in his *The Catholic Reformation: Council, Churchmen, Controversies,* Variorum Collected Studies Series CS 403 (Aldershot U.K.: Ashgate, 1993), entry I.

103. Marc Dykmans, "Le cinquième concile du Latran d'après le diaire de Paris de Grassi," AHC 14 (1982): 271–369.

104. Eugen Guglia, "Studien zur Geschichte des V. Laterankonzils: Neue Folge," *Sitzungsberichte der philosophisch-historischen Klasse der kaiserlichen Akademie der Wissenschaft—Wien* 152 (1905–6): 3:1–50, at 2–8; Minnich, "Concepts of Reform Proposed at the Fifth Lateran Council," AHP 7 (1969): 163–251, reprinted in his *The Fifth Lateran Council,* entry IV, with new appendixes on 252*–53*.

105. Marino Sanudo, *I diarii di Marino Sanuto,* 58 vols., ed. R. Fulin et al. (Venice: Visentini, 1879–1903), especially vols. 11–24; Alberto Caviglia, *Claudio di Seyssel (1450–1520): La vita nella storia de' suoi tempi,* Miscellanea di storia italiana, terza serie, XXIII (Turin: Bocca 1928), 593–602; Luis Jesús de Manglano y Cucaló de Montull, *Politica en Italia del rey católico, 1507–1516: Correspondencia inedita con el embajador Vich,* 2 vols., Biblioteca "Reyes Católicos" 20/1–2 (Madrid: CSIC, 1963).

106. Paolo Giustiniani and Pietro Querini, *Libellus ad Leonem X. Pontificem Maximum* in *Annales Camaldulenses ordinis Sancti Benedicti,* ed. Giovanni-Benedetto Mittarelli and Anselmo Costadoni, 9 vols. (Venice: Prostant apud Jo. Baptistam Pasquali, 1755–77), 9:612–719; and the Italian translation by G. Bianchini, *Lettera al Papa: Libellus ad Leonem X (1513)* (Modena: Poligrafico Artioli, 1995); on the various editions of Gianfrancesco Pico della Mirandola's *De reformandis moribus* addressed to Leo X and the conciliar fathers, see Charles B. Schmitt, "Gianfrancesco Pico della Mirandola and the Fifth Lateran Council," *Archiv für Reformationsgeschichte* 61 (1970): 161–78, at 166, 175–77; José M. Doussinague, *Fernando el Católico y el cisma de Pisa* (Madrid: Espasa Calpe, 1946), 504–44; José Goñi Gaztambide, "España y el concilio V de Latrán," AHC 6 (1974): 154–222, at 208–20; Minnich, "The Reform Proposals (1513) of Stefano Taleazzi for the Fifth Lateran Council (1512–17)," AHC 27/28 (1995/96): 543–70, at 563–70.

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The ecumenical status of Lateran V has been challenged over the centuries. The supporters of Pisa II objected that their council was already in session and the Lateran's location in Rome prevented it from being free, under the guidance of the Holy Spirit.[107] Erasmus faulted it for various reasons, but notably for the nonimplementation of its decrees.[108] Gallicans over the centuries have been upset that it had formally abrogated the Pragmatic Sanction of Bourges, approved the Concordat of Bologna, and in its decree *Pastor aeternus* (1516) had referred to Basel as a "quasi-council" and had affirmed that only a legitimate pope can convoke, transfer, and close a council.[109] Karl August Fink in 1968, repeating the old claims that the council was poorly attended, lacked representation of the universal church, and was tightly controlled by the popes who feared reforms, concluded: "it is difficult to assign to the Fifth Lateran Council the rank of a general council."[110]

Modern scholarship has challenged a number of the negative views of Lateran V. Attendance at the council compares favorably to that of many medieval general councils: over 280 prelates were personally present and a third of the dioceses represented were non-Italian. All the countries of Latin Europe (less Scotland and Navarre), plus Spanish Hispanola, Portuguese Africa (Ceuta), and the Maronites of Lebanon and the Greeks of Rhodes had ambassadors, prominent churchmen, or procurators present.[111] Far from being docile puppets of the pope, the bishops so pushed their own agenda that Leo X threatened to prorogue the council indefinitely and had to negotiate a compromise.[112] The faith deputation successfully resisted the Medici pope's efforts to condemn Savonarola by name.[113] Only by a mere margin of two or three votes of the conciliar fathers did Leo X succeed in terminating the council.[114]

107. Bäumer, "Zahl," 310.

108. Minnich, "Erasmus and the Fifth Lateran Council (1512–17)," in *Erasmus of Rotterdam, the Man and the Scholar: Proceedings of the Symposium Held at the Erasmus University, Rotterdam, 9–11 November 1986,* ed. Jan Sperna Weiland and Willem Th. Frijhoff (Leiden: Brill, 1988), 46–60, reprinted in *Catholic Reformation* as entry X.

109. Jules Thomas, *Le Concordat de 1516: Ses origines, son histoire au XVIe siècle,* 3 vols. (Paris: Picard, 1910), 2:235–312; COD, 1:640–45, especially 642, 17, 20–22.

110. Fink, "From the Middle Ages to the Reformation," in *From the High Middle Ages to the Eve of the Reformation,* 521–66, at 564.

111. Minnich, "The Participants at the Fifth Lateran Council," AHP 12 (1974): 157–206, at 175–76.

112. Minnich, "The Proposals for an Episcopal College at Lateran V," in *Ecclesia Militans: Studien zur Konzilien- und Reformationsgeschichte, Remigius Bäumer zum 70. Geburtstag gewidmet,* ed. Walter Brandmüller, Herbert Immenkötter, and Erwin Iserloh, 2 vols. (Paderborn: Schöningh, 1988), 1:213–32, at 225–30.

113. Minnich, "Prophecy and the Fifth Lateran Council (1512–1517)," in Reeves, *Prophetic Rome,* 63–87, at 87, and Sharon Leftley, "The Millennium in Renaissance Italy: A Persecuted Belief?" *Renaissance Studies* 13 (1999): 117–29.

114. Dykmans, "Diaire," 369 (no. 1231:8).

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To what extent Lateran V marked the triumph of papal monarchy over conciliarism is still debated. Oakley has shown that *Pastor aeternus* did not contradict *Haec sancta,* contrary to the claims of Luther and others, because it limited papal superiority to those situations when there was clearly only one legitimate pope and it did not explicitly rescind the decree of Constance and Basel.[115] Conciliarist ideas found a home in Rome in the writings of Gozzadini and Massaino and in some form may have motivated the attempts by the bishops at Lateran V to establish their own episcopal college and limit incursions into their jurisdictional authority by cardinals and religious. The intense diplomatic efforts of Julius II and Leo X to defeat conciliarism, to the point both of forcing the former adherents of Pisa II to repent formally their heretical and schismatic actions against the Roman Church and its pope and of continuing the Lateran Council in the hope that it would officially abrogate the Pragmatic Sanction of Bourges, all indicate that the popes did try to use this council to defeat not only Pisa II but also the conciliarist theory that underpinned it.[116]

Other aspects of the council have also been studied. Synthetic overviews of Lateran V have been provided by Olivier de la Brosse (1975) and Richard Schoeck (1981).[117] Guglia (1899) and Minnich (1982) have traced its changing organizational structures.[118] The distorted information on the Ukrainians brought to the council by the Polish delegation has been analyzed by Johannes Krajcar (1963) and Petro B. T. Bilaniuk (1975). Bilaniuk and Minnich (1974) also surveyed the council's relations to the other Eastern churches.[119]

The decrees enacted by Lateran V have been studied for their origins and

115. Oakley, *Council Over Pope?* 91, and "Conciliarism at the Fifth Lateran Council?" CH 41 (1972): 452–63, here 459–63; John Headley, "Luther and the Fifth Lateran Council," *Archiv für Reformationsgeschichte* 64 (1973): 55–78. For the view that Oakley has here provided a much too restrictive interpretation, see Hans Schneider, *Das Konziliarismus als Problem der neueren katholischen Theologie: Die Geschichte der Auslegung der konstanzer Dekrete von Febronius bis zur Gegenwart,* Arbeiten zur Kirchengeschichte, 47 (Berlin: De Gruyter, 1976), 48n137, and his critique of Oakley's theological perspective on 270–72.

116. Minnich, "The Healing of the Pisan Schism (1511–13)," AHC 16 (1984): 59–192, at 130, 154, 169–70, reprinted with new appendixes in *Fifth Lateran Council,* entry II; and Minnich, "De Grassi's Diary," 380.

117. De la Brosse, "Lateran V," 11–114; Richard Schoeck, "The Fifth Lateran Council: Its Partial Successes and Its Larger Failures," in *Reform and Authority in the Medieval and Reformation Church,* ed. Guy Fitch Lytle (Washington, D.C.: The Catholic University of America Press, 1981), 99–126.

118. Eugen Guglia, "Studien zur Geschichte des V. Lateranconcils (1512–1517)," *Sitzungsberichte der philosophisch-historischen Class der kaiserlichen Akademie der Wissenschaften—Wien* 140 (1899): 10:1–34, at 29–34; Minnich, "De Grassi's Diary," 423–31, 439–53.

119. Johannes Krajcar, "A Report on the Ruthenians and Their Errors Prepared for the Fifth Lateran Council," *Orientalia christiana periodica* 29 (1963): 75–94; Petro Borys Tereshkovych Bilaniuk, *The Fifth Lateran Council (1512–1517) and the Eastern Churches* (Toronto: Central Committee for the Defence of Rite, Tradition, and Languge of the Ukranian Catholic, Church in USA and Canada, 1975); Minnich, "The Orator of Jerusalem at Lateran V," *Orientalia christiana periodica* 40 (1974): 364–76, reprinted in *Catholic Reformation,* entry II.

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content. Marc Dykmans (1989) has traced the complicated history of the bull *Si summus rerum opifex* (1513) prohibiting simony in papal elections.[120] The origins of the conciliar decree *Apostolici regiminis* (1513), which defended the immortality of the soul and restricted the study of pagan classics by clerics in training, has been attributed primarily to the circle of Paolo Giustiniani (1476–1528) and Pietro Querini (1479–1514) by Felix Gilbert (1967), in part to the Neoplatonist Giles of Viterbo (1469–1532) by O'Malley (1968), to the conciliar faith deputation (especially the anti-Averroists Antonio Trombetta, O.F.M. [1436–1517] and Cajetan (1468–1533), the eclectic Scotist-Platonist Juraj Dragišić, O.F.M. [c. 1445/50–1520], and the Aristotelian Giovanni Scoti [d. 1528]) by M. Daniel Price (1985), and in part to the Greek disciple of Bessarion, Alexios Celadenus (1450–1517), by Minnich (1988).[121] Eric A. Constant sees this decree as a dogmatic condemnation of the doctrine of the "double truth." Similarly, Francesco Beretta claims that the decree subordinated philosophy and astronomy to theology and was used to justify the persecutions of Giordano Bruno and Galileo Galilei.[122] The background to the decree *Inter multiplices* (1515) on credit organizations that charged a management fee (*montes pietatis*) has been laid out by Michele Monaco (1971).[123] The context that produced the decree *Supernae majestatis praesidio* (1516) on prophetic preaching has been studied by Ottavia Niccoli (1987), Minnich (1992), and Sharon Leftley (1999).[124] As the likely source of the ideas in *Pastor aeternus,* abrogating the Pragmatic Sanction of Bourges, Minnich suggests the theologians Trombetta and de Vio and the canonists Pietro Accolti (1455–1532), Antonio del Monte, and Domenico Giacobazzi (1444–1528).[125] Whether the Concordat of

120. Marc Dykmans, "Le conclave sans simonie ou la bulle de Jules II sur l'élection papale," in *Miscellanea Bibliothecae Apostolicae Vaticanae III,* Studi e testi 333 (Vatican City: Biblioteca Apostolica Vaticana, 1989), 203–55.

121. Felix Gilbert, "Cristianesimo, umanesimo, e la Bolla 'Apostolici Regiminis' del 1513," trans. M. V. Malvano, *Rivista storica italiana* 79 (1967): 976–90; John W. O'Malley, *Giles of Viterbo on Church and Reform: A Study in Renaissance Thought,* Studies in Medieval and Reformation Thought 5 (Leiden: Brill, 1968), 42; M. Daniel Price, "The Origins of Lateran V's *Apostolici regiminis,*" AHC 17 (1985): 464–72; Minnich, "Alexios Celadenus: A Disciple of Bessarion in Renaissance Italy," *Historical Reflections/Réflexions historiques* 15 (1988): 47–64, at 61–63.

122. Eric A. Constant, "A Reinterpretation of the Fifth Lateran Council Decree *Apostolici regiminis* (1513)," *Sixteenth Century Journal* 33 (2002): 353–79; Francesco Beretta, "Censure théologique et pensée philosophique: Moments de la réception du décret *Apostolici regiminis* (1513)," *Freiberger Zeitschrift für Philosophie und Theologie* 48 (2001): 267–68.

123. Michele Monaco, "La questione dei Monte di Pietà al quinto concilio Lateranense," *Rivista di studi salernitani* 7 (1971): 85–136.

124. Ottavia Niccoli, *Prophecy and People in Renaissance Italy,* trans. Lydia G. Cochrane (Princeton: Princeton University Press, 1990); Minnich, "Prophecy and the Fifth Lateran Council"; and Leftley,"The Millennium," 17–129.

125. Minnich, "The Role of Schools of Theology in the Councils of the Late Medieval and Renaissance Periods: Konstanz to LateranV," AHC 35 (2003): 80–83.

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Bologna (1516) profited more Leo X or Francis I has been examined by Robert Knecht (1963 and 1982).[126] The council's failed attempt to reform the calendar, which gave impetus to the discoveries of Copernicus, was the topic of a monograph by Demetrio Marzi (1896).[127]

Key members of the council have also been studied in the last half century: Popes Julius II by Christine Shaw (1993) and Leo X by Carlo Falconi (1987); Cardinals Matthaeus Schiner by Albert Büchi, Emil Franz Joseph Müller, and André Donnet (1950), Bernardo Dovizi da Bibbiena by G. L. Moncallero (1953 and 1955–65), Christopher Bainbridge by David S. Chambers (1965), Giles of Viterbo by O'Malley (1968) and Francis X. Martin (1992), Cajetan by Jared Wicks (1978, 1983), and Francesco Soderini by Kate J. P. Lowe (1993); and Bishops Pascual de Rebenga de Ampudia, O.P., by Joaquin Ortega Martin (1973), Juraj Dragišić, O.F.M., by Cesare Vasoli (1974, 1988, 1992), and Guillaume Briçonnet by Michel Veissière (1986).[128]

Although the council has often been dismissed as having had little influence apart from its victory over conciliarism, Angelo L. Stoppa (1968) has shown that Cardinals Federico di San Severino in Novara and Antonio del Monte in Pavia implemented through their diocesan synods some reform decrees of Lateran V on clerical garb and the burial rights of religious, Goñi Gaztambide (1974) has found some implementation of its decrees on religious education at the Univer-

126. Robert J. Knecht, "The Concordat of 1516: A Reassessment," *Birmingham Historical Journal* 9 (1963): 16–32, reprinted in *Government in Reformation Europe, 1520–1560,* ed. Henry J. Cohen (New York: Harper & Row, 1971), 91–112, and his *Francis I* (Cambridge: Cambridge University Press, 1982), 51–65.

127. Demetrio Marzi, *La questione della riforma del calendario nel quinto concilio lateranense (1512–1517),* Pubblicazioni del R. Istituto di studi superiori practici e di perfezionamento in Firenze, sezione di filosofia e filologia 27 (Florence: Carnesecchi, 1896).

128. Christine Shaw, *Julius II: The Warrior Pope* (Oxford: Blackwell, 1993); Carlo Falconi, *Leone X: Giovanni de' Medici* (Milan: Rusconi, 1987); Albert Büchi, *Le cardinal Mathieu Schiner,* ed. Andé Donnet (Neuchatel: Ed. de La Baconnière, 1950); Giuseppe Lorenzo Moncallero, *Il cardinal Bernardo Dovizi da Bibbiena, umanista e diplomatico (1470–1520): Uomini e avvenimenti del rinascimento alla luce di documenti inediti,* Biblioteca dell' "Archivum Romanicum" fondata da Giulio Bertoni, serie I: Storia-Letteratura-Paleografia 35 (Florence: Olschki, 1953), and his *Epistolario di Bernardo Dovizi da Bibbiena,* 2 vols., Biblioteca dell' "Archivum Romanicum," serie I: Storia-Letteratura-Paleografia 44, 81 (Florence: Olschki, 1955–65); David Sanderson Chambers, *Cardinal Bainbridge in the Court of Rome: 1509 to 1514* (Oxford: Oxford University Press, 1965); O'Malley, *Giles of Viterbo;* and Francis X. Martin, *Friar, Reformer, and Renaissance Scholar: Life and Work of Giles of Viterbo, 1469–1532,* ed. John E. Rotelle, The Augustinian Series 18 (Villanova: Augustinian, 1992); *Cajetan Responds: A Reader in Reformation Controversy,* ed. and trans. W. Jared Wicks (Washington, D.C.: The Catholic University Press of America, 1978); Wicks, *Cajetan und die Anfänge der Reformation,* Katholisches Leben und Kirchenreform im Zeitalter der Glaubensspaltung 43 (Münster: Aschendorff, 1983); Kate J. P. Lowe, *Church and Politics in Renaissance Italy: The Life and Career of Cardinal Francesco Soderini (1453–1524),* Cambridge Studies in Italian History and Culture (Cambridge: Cambridge University Press, 1993); Joaquin Ortega Martin, *Un reformador pretridentino: Don Pascual de Ampudia, obispo de Burgos (1496–1512),* Publicaciones del Instituto español de historia eclesiastica, Monografias 20 (Rome: Iglesia Nacional Española, 1973); Cesare Vasoli, *Profezia e ragione* (Naples: Morano, 1974), *Filosofia e religione nella cultura del Rinascimento* (Naples: Morano, 1988), and "Giorgio Benigno Salviati (Dragišić)," in Reeves, *Prophetic Rome,* 121–56; Veissière, *Briçonnet.*

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sity of Alcalá, and Minnich (1981) has discussed the impact of the reform decrees in the city of Rome.[129] In the years leading up to the Council of Trent, authorities in Rome had a detailed recollection of the Lateran decrees and did not think of them as a dead letter. The influence that the procedures and decrees of Lateran V played on the Council of Trent has been the topic of a separate study.[130]

The publication of the acta of the Council of Trent (1545–63) has had a long and controversial history. Pius IV, who had approved the council's decrees and ordered their publication, intended to have printed also the conciliar acta, but died first. His decision to prohibit any commentaries and glosses on the conciliar decrees, instead requiring all to have recourse to the pope and his Sacred Congregation of the Council for an authoritative interpretation, seems to have helped shape the curial mentality that it is better not to make the documents of the council available lest they provide evidence for contesting the rulings of the Congregation of the Council. If the official and copious records of the council's secretary, Angelo Massarelli, and the correspondence between Rome and the council's presidents were put under lock and key, the papers of the conciliar fathers, theologians, and ambassadors could be found in archives throughout Europe.[131] Among the non-Roman materials published over the years, the most important early collection was that of Jodocus Le Plat (1732–1810), the Josephinist Louvain professor of canon law whose materials were drawn primarily from the archives in Brussels and Mechelin and whose collection was published in seven hefty volumes (1781–87).[132] In 1857 Augustin Theiner (1804–74), a German Oratorian priest and archivist at the Vatican, received permission from Pius IX (r. 1846–78) to collect and publish the original documents of the council. Theiner collected materials from archives around Italy, enough to fill seven tomes, but was suddenly ordered to stop the printing out of fear that the authority of the council's canons would be weakened when the process by which they were formulated was revealed. Theiner initially complied, but then in 1874 secretly sent his materials to Zagreb, where a

129. Angelo L. Stoppa, "Quattro decreti generali novaresi simultanei al concilio Lateranense V finora sconosciuti e inediti," *Novariense: Associazione di storia ecclesiastica novarese* 2 (1968): 48–104; Goñi Gaztambide, "España y Letrán," 206–08; Minnich, "*Incipiat Iudicium a Domo Domini:* The Fifth Lateran Council and the Reform of Rome," in Lytle, *Reform and Authority,* 127–42, reprinted in *Catholic Reformation* as entry IV.

130. Nelson H. Minnich, "The Last Two Councils of the Catholic Reformation," in *Early Modern Catholicism: Essays in Honour of John W. O'Malley, S.J.,* ed. Kathleen M. Comerford and Hilmar M. Pabel (Toronto: University of Toronto Press, 2001), 3–25.

131. Jedin, *Überblick,* 12–39; Owen Chadwick, *Catholicism and History: The Opening of the Vatican Archives, the Herbert Hensley Lectures in the University of Oxford, 1976* (Cambridge: Cambridge University Press, 1978), 46.

132. Jedin, *Überblick,* 163–66; Jodocus Le Plat, *Monumentorum ad historiam concilii Tridentini potissimum illustrandam spectantium amplissima collectio,* 7 vols. (Louvain: Typographia Academica, 1781–87).

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much reduced, two-volume collection was to be printed. He died on his way there to supervise the printing.[133]

In 1893 Georg von Hertling, president of the Görresgesellschaft, an association to combat the *Kulturkampf* by promoting German Catholic culture, met in Rome Heinrich Denifle, O.P., a Vatican subarchivist, and together they proposed that the association undertake the publication of the complete acta of Trent. Their proposal received a favorable response in 1894 from Leo XIII (r. 1878–1903), who favored the scientific study of church history, and from the German Bishops Conference, which pledged its support. A team of mostly German scholars was assembled to carry out the project. The first tome appeared in 1901, containing the first portion of Massarelli's diaries and the commentary of Ercole Severole, edited by Sebastian Merkle. The final volume to appear in this series, volume 13, tome 2, was edited by Klaus Ganzer and published one hundred years later in 2001.[134] Among the other important collections of Tridentine documents published in the twentieth century are the correspondence from the third conciliar period of the cardinal-legates with Rome and vice versa by the Czech scholar Josef Šusta in 1904–14 and of Archbishop Muzio Calini by Alessandro Marani in 1963, and the reports of Cardinal de Granville relative to the second conciliar period by Constancio Gutiérrez in 1981.[135]

Early histories of the Council of Trent often suffered from an inadequate access to sources and to the theological biases of their authors. Among the Catholic authors who gave answer to Protestant attacks, especially to the monumental, four-part Lutheran critique of the decrees of Trent, the *Examen* (1565–73) of Martin Chemnitz (1522–86), was Diego Payva de Andrada (1528–75), whose earlier *Libri X* (1564) and posthumous *Defensio* (1578) were based in part on his personal recollections as a Portuguese theologian present during the third period of the council.[136] The first major historical account of the council was written by the Venetian Servite Gallicanist Paolo Sarpi and published in London in

133. Jedin, *Überblick,* 180–82, 185–87; Chadwick, *Catholicism,* 49–69; Augustin Theiner, *Acta genuina SS. Oecumenici concilii Tridentini sub Paulo III Iulio III et Pio IV PP. MM. ab Angelo Massarello episcopo Thelesino eiusdem concilii secretario conscripta nunc primum integra edita,* 2 vols. (Zagreb: Typis et Sumptibus Societatis Bibliophilae, 1874).

134. Jedin, *Überblick,* 195–213; Chadwick, *Catholicism,* 100–4 (Leo XIII in 1883 established a commission of three cardinals to promote the critical study of history, claiming that the church had no fear of the truth: let nothing untrue be said, and nothing true be unsaid); Klaus Ganzer, "La conclusione dell' edizione degli atti del concilio di Trento," *Annali dell' Istituto storico italo-germanico in Trento / Jahrbuch des italienisch-deutschen historischen Instituts in Trient* 29 (2003): 389–403.

135. *Die römische Curie und das Concil von Trient unter Pius IV,* ed. Josef Šusta, 4 vols. (Vienna: Hölder, 1904–14); Muzio Calini, *Lettere conciliari, 1561–63,* ed. A. Marani (Brescia: Tir. Geroldi, 1963); and Constancio Gutiérrez, *Trento: Un concilio para la lunion (1550–1552),* 3 vols. (Madrid: CSIC, 1981).

136. Jedin, *Überblick,* 61–64.

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1619 by the apostate Marcantonio de Dominis (1566–1624). Sarpi's *Istoria del concilio Tridentino,* based on archival materials and subtly advancing the thesis that the council was manipulated by the cardinal-legates to prevent true reform according to an episcopalist model, became the preeminent history in Gallican and Protestant circles. To answer it, Rome commissioned the scholar Terenzio Alciati, S.J. (1570–1651), who labored for twenty-five years assembling materials and drafting half the text, and then the theologian Pietro Sforza Pallavicino, S.J. (1607–67), who brought the task to completion, publishing between 1656 and 1664 a three-volume *Istoria del concilio di Trento* based on original documents in the Vatican archives and in private collections. Pallavicino's account, which lacked the style and drama of Sarpi's, was based on fuller documentation and presented a more edifying view of the council. It became authoritative in Catholic circles for the next three hundred years.[137] The only other major account was that by the Oratorian priest Odorico Rainaldi (1595–1671) in his continuation of Cesare Baronio's *Annales Ecclesiastici,* which was also based on Vatican materials and appeared posthumously in 1686.[138]

In modern times a history of the Council of Trent can be drawn from the *Geschichte der Päpste seit dem Ausgang des Mittelaters* in 16 volumes (1886–1933) by Ludwig Pastor (1854–1928).[139] Volume 9 of the continuation of Hefele's *Conciliengeschichte* by P. Richard, published in 1930–31, summarized for most of its over one thousand pages the findings of Pallavicino and Pastor, but also used new materials made available primarily by the Görresgesellschaft edition, by the volumes in the *Nuntiaturberichte aus Deutschland* series, and by other collections of documents such as that of Šusta.[140] In 1949 appeared the first of four volumes of the detailed *Geschichte des Konzils von Trient* (1949–75) by a German priest and member of the Görresgesellschaft team working on Trent, Hubert Jedin (1900–80). To keep his already massive study within proportions, he published separately numerous monographs and articles on topics related to the council.[141] His volumes, which

137. Ibid., 98–108; Chadwick, *Catholicism,* 47–48; Ganzer, "La conclusione," 391–92.

138. Jedin, *Überblick,* 139; Chadwick, *Catholicism,* 48.

139. In the English translation, *History of the Popes,* trans. Frederick Ignatius Antrobus, Ralph Francis Kerr, Ernest Graf, and E. F. Peeler, 40 vols. (St. Louis: Herder, 1923–53), see especially vols. 11–16.

140. P. Richard, "Concile de Trente," in Hefele-Leclercq, *Historie des conciles,* 9/1:12–18.

141. For the autobiography of Jedin, see his *Lebensbericht: Mit einem Dokumentanhang,* 2nd ed., ed. Konrad Repgen (Mainz: Matthias Grunwald Verlag, 1985); Jedin, *Geschichte des Konzils von Trient,* 4 vols. (Freiburg: Herder, 1949–75); some of his more important articles related to the council have been reprinted in his *Kirche des Glaubens, Kirche der Geschichte: Ausgewählte Aufsätze und Vorträge,* 2 vols. (Freiburg: Herder, 1966). For a brief biography and bibliography, see Magnus Ditsche, "Jedin, Hubert (1900–1980)," *Theologische Realenzyklopädie,* vol. 16 (Berlin: De Gruyter, 1987), 550–53; and Klaus Ganzer, "Hubert Jedin e il concilio di Trento," *Cristianesimo nella storia* 22 (2001): 339–54.

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analyzed the sources and summarized the enormous literature on the council, often opened the way for other scholars to explore more specialized topics. When the series *Histoire des conciles oecuméniques,* directed by Gervais Dumeige, S.J., looked for someone to write an account of the Council of Trent, volumes 10–11 (1975–81), it had to call upon the services of four scholars to cover more briefly the same ground as had Jedin.[142] Two briefer histories of the council have been provided by Alain Tallon (2000) and Adriano Prosperi (2001).[143]

The scholarly literature on Trent is enormous and continues to grow. Jubilee celebrations in 1951 of the delayed 400th anniversary of the council's opening and 50th of the publication of the first tome of the *Concilium Tridentinum,* in 1963 of the 400th anniversary of the council's conclusion, and in 1995 of the 450th anniversary of its opening have produced collections of scholarly articles.[144] Historical surveys of the literature related to Trent have also been published.[145] While earlier studies frequently focused on the debates leading up to the formulation of Trent's decrees, more recent scholarship is interested in the application of its decrees in particular countries and dioceses.[146] A great contribution would be made to the understanding of how Trent was interpreted and implemented if the procedures and decisions of the Sacred Congregation of the Council were carefully studied.[147] Notable among recent monographs on the council is the magisterial study of Alain Tallon (1997) on the shifting relationship of France with the council.[148]

One topic that has commanded the attention of recent scholars is the "ghost" of conciliarism at Trent. Conciliarist ideas did not die with the defeat of Pisa II and the condemnations at Lateran V. The University of Paris, where any denial of

142. Joseph Lecler, Henri Holstein, and Charles Lefebvre, "Trente: Le concile sous Paul III," in de la Brosse et al., *Lateran V et Trente,* 115–407; Joseph Lecler, Henri Holstein, Pierre Adnès, and Charles Lefebvre, *Trente* (Paris: Ed. de l'Orante, 1981).

143. Alain Tallon, *Le concile de Trente* (Paris: Cerf, 2000); Adriano Prosperi, *Il concilio di Trento: Una introduzione storica,* Piccola Biblioteca Einaudi, nuova serie, Storia e geografia 117 (Turin: Einaudi, 2001).

144. *Weltkonzil von Trient: Sein Werden und Wirken,* 2 vols., ed. Georg Schreiber (Freiburg: Herder, 1951); *Il concilio di Trento e la riforma tridentina: Atti del convegno storico internazionale, Trento—2–6 settembre 1963* (Rome: Herder, 1965); and *Il concilio di Trento e il moderno: Atti della XXXVIII settimana di studio, 11–15 settembre 1995,* ed. Paolo Prodi and Wolfgang Reinhard, Annali dell' Istituto storico italo-germanico 45 (Bologna: Il Mulino, 1996).

145. E.g., Giuseppe Alberigo, "The Council of Trent," in *Catholicism in Early Modern History, 1500–1700: A Guide to Research,* ed. John W. O'Malley (St. Louis: Center for Reformation Research, 1987), 211–26.

146. Jedin originally proposed writing a fifth volume of his history of the Council of Trent dedicated to the implementation of its decrees but, no longer able to do so, he entrusted the task to Paolo Prodi, who edited a collection of studies, some of which explored this topic: *Il concilio di Trento come crocevia della politica europea,* ed. Hubert Jedin and Paolo Prodi, Annali dell' Istituto storico italo-germanico 4 (Bologna: Il Mulino, 1979).

147. A preliminary start on such a project was made by the collection *La sacra congregazione del concilio: Quarto centenario dalla fondazione (1564–1964): Studi e ricerche* (Vatican City: n.p., 1964).

148. Alain Tallon, *La France et le concile de Trente (1518–1563),* Bibliothèque des Ecoles françaises d'Athènes et de Rome 285 (Rome: Ecole française de Rome, 1997), 423, 426, 435–39.

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the teachings of *Haec sancta* was considered heresy, remained a citadel of conciliarism, as Bäumer and Tallon have shown.[149] In Germany, according to Bäumer and Tallon, not only the Lutherans invoked Constance and Basel on the supremacy of councils over the popes, but Catholic Cologne was also a center of conciliarism.[150] Oakley has demonstrated that Henry VIII reinvigorated a conciliarist tradition in England in his efforts to secure and justify a divorce.[151] In Poland-Lithuania the University of Krakow remained faithful to Basel.[152] Fear of the legacy of Constance and Basel had led the papacy to delay calling the council advocated by both Catholics and Protestants.[153] When Paul III finally did convoke it, he provided his legates with explicit instructions that they not follow the procedures of Constance and Basel and thus deny to theologians a deliberative voice.[154] One of the earliest heated debates during the First Period (1545–48) of the council, as noted by Jedin, focused on whether or not to use in the opening words of Trent's decrees the phrase "representing the universal church" employed at Constance and Basel, a debate the legates won by appealing to the practice of the ancient councils, which did not use it.[155] Bäumer and Brandmüller have shown that in the controversy over the transfer of the council from Trent to Bologna and again in the discussions over returning to Trent, the opponents of the papal legates' decisions pointed to the decree *Frequens* of Constance, requiring the approval of two-thirds of the cardinals for such transfers and the relocation of the council in a nearby city in the same nation.[156] The Protestant delegations to the Second Period (1551–52), as studied by Minnich, wanted to make their participation contingent on the council's declaration of its superiority over the pope, on papal appointees not controlling its presidency, on bishops being released from their oaths of loyalty to the pope so that they could speak freely, on the delegates being granted a safe conduct and deliberative voice by the council, on reopening doctrinal decisions already made, and on deciding future questions based on scripture and the ancient fathers—positions in keeping with

149. Bäumer, "Dekrete im Urteil," 572–73; Tallon, *France,* 423.

150. Bäumer, "Dekrete im Urteil," 547–49, 553–54, 572, and his "Konziliarismus auf dem Tridentinum? Die Hintergründe der Trienter Konzilskrise," *Theologische Revue* 72 (1976): 351–62, at col. 353; Tallon, *France,* 423.

151. Oakley, "Conciliarism in England," 231.

152. Tallon, *France,* 423.

153. Ibid.; Bäumer, "Konziliarismus?" 351.

154. Nelson H. Minnich, "The Changing Status of the Theologians in the General Councils of the West: Pisa I (1409) to Trent (1545–63)," AHC 30 (1998): 196–229, at 221, and "The Voice of Theologians in General Councils from Pisa to Trent," *Theological Studies* 59 (1998): 420–41, at 431n55.

155. Hubert Jedin, *A History of the Council of Trent,* 2 vols., trans. Ernest Graf (London: Nelson, 1957–61), 2:23–24; Tallon, *France,* 432n28.

156. Jedin, *Trent,* 2:431n1; Remigius Bäumer, "Matthias Ugonius und die Konzilsverlegung durch den Papst: Ein Beitrag zu den Diskussion um die Translation des Trienter Konzils," *Würzburger Diözesabgeschichtsblätter* 35/36 (1974): 209–23; Walter Brandmüller, "Papst und Konzil auf dem Tridentinum: Ein Durchblicke durch der 3. Band von Hubert Jedins *Geschichte des Konzils von Trient,*" AHC 5 (1973): 198–203, at 198–201; Tallon, *France,* 423n30.

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the teachings and practice of Basel, but which Rome was unwilling to accept. The imperial party, which included many German and Spanish bishops, resisted approving a draft decree on the sacrament of orders formulated in Rome that stated that all jurisdictional authority in the church is a delegation from the pope, who is thus implicitly superior to a council.[157] If the Germans, both Lutheran and Catholic, of the Second Period invoked the ghosts of Constance and Basel to little avail, the French delegation of the Third Period (1562–63) was more successful in safeguarding the conciliarist heritage, as reported by Tallon. According to Bäumer and Ganzer, under the leadership of Charles de Guise (1524–74), cardinal of Lorraine, the French bishops and theologians, allied with the imperial delegation, Spanish episcopalists, and "the more intelligent portion of the Italians," formed a block to reject the curial notion of the bishops as being mere vicars of the pope with only delegated power, arguing instead that their power comes immediately from God. While the pope has the highest power in the church, that power is not limitless, but bound by the scriptures, councils, and church fathers, and should respect the principle of subsidiarity. The pope stands at the center of the universal church, unifying the disparate local churches with their separate jurisdictions. This communion of churches is represented in a general council, of which he is a member.[158] Efforts by Rome to get the Council of Trent to adopt the formula approved by the Council of Florence regarding the plentitude of papal power over the universal church were sternly resisted by the French delegates, who saw such teaching as contrary to Constance and Basel and who refused to acknowledge Florence as a legitimate council. Attempts to find a compromise formula, such as the pope is the universal bishop of the church, were similarly rejected since they implied that the church is a unitary jurisdiction ruled by the pope, who is superior to a council.[159] A number of studies have shown that these conflicting ecclesiologies underpinned the controversies over the divine law obligation of episcopal residency and placing the bishop at the head of the hierarchy of orders, controversies that nearly wrecked the council.[160]

157. Nelson H. Minnich, "*Wie in dem basilischen concilio den Behemen gescheen?* The Status of the Protestants at the Council of Trent," in *The Contentious Triangle: Church, State, and University: A Festschrift in Honor of Professor George Huntston Williams,* ed. Rodney L. Petersen and Calvin Augustine Pater, Sixteenth Century Essays and Studies 51 (Kirksville, Mo.: Thomas Jefferson University Press, 1999), 201–19, at 209–12.

158. Bäumer, "Dekrete im Urteil," 563, 573; Klaus Ganzer, "Gesamtkirche und Ortskirche auf dem Konzil von Trient," *Römische Quartalschrift* 95 (2000): 167–78, at 168–69, 173, 175.

159. Klaus Ganzer, "Gallikanische und Römische Primatsauffassung im Widerstreit: Zu den ekklesiologischen Auseinandersetzungen auf dem Konzil von Trient," *Historisches Jahrbuch* 109 (1989): 109–63, at 140, 143, 151.

160. E.g., Giuseppe Alberigo, "L'ecclesiologia del concilio di Trento," *Rivista di storia della Chiesa in Italia* 18 (1964): 227–42, at 235–38; Hubert Jedin, "Der Kampf um die bischöfliche Residenzpflicht 1562/63," in *Il concilio di Trento e la riforma tridentina,* 1:1–25: see 1n1, where Jedin denies any ecclesiological controversy underlying

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If Rome was unable to get the fathers of Trent to reject explicitly Constance and Basel and approve formally Florence and Lateran V, it succeeded by the backdoor. In the closing words of its final decree, Trent stated that should difficulties arise in the reception of its decrees that required the issuance of a definition or declaration, something the council doubted would occur, the council called upon the pope to consult and negotiate with the parties from the area where the difficulties arose, or if necessary to convoke a new general council, in order to provide for the needs of the provinces, the glory of God, and the tranquility of the church—solutions in keeping with a conciliarist perspective. But then the decree added, almost as an afterthought, that the pope could also come up with a different solution he thought more fitting.[161] By giving the pope such a blank check, those fathers who had fought long and hard to preserve the heritage of Constance and Basel unwittingly provided the basis for the Congregation of the Council, which effectively gave the papal office complete control over doctrine and practice and allowed popes to avoid holding another council for three hundred years, until the time was ripe for a declaration of their supreme authority and infallibility at Vatican I.

Scholars who work on the councils of the Catholic Reformation have tended to concentrate their efforts on a single council, given that the source material and literature on each is so extensive. But given the continuities among the councils, whether they involved issues of procedure, papal/conciliar supremacy, combating recent heresies, reform of the church, reunion with the Eastern churches, peace among Latin Christian rulers, or a crusade against the infidels, some scholars have begun to explore themes that cut across many councils. Gill has studied the question of representation from Pisa I to Florence, Helmrath the choice of the location of a council from Lateran IV to Trent, and Minnich the changing role

initially the debate on residency, but 22, where he acknowledges that ecclesiological issues were present in the debate over orders; Giuseppe Alberigo, "La potestà episcopali nei dibattiti tridentini," in *Il concilio di Trento e la riforma tridentina,* 2:471–523, at 492; Antonio Dusini, "L'episcopato nel decreto dogmatico sull'Ordine Sacro della XXIII sessione del concilio di Trento," in *Il concilio di Trento e la riforma tridentina,* 2:577–613, at 602–3; Bäumer, "Konziliarismus?" 357–59, 361; Hermann Josef Sieben, "Option für den Papst: Die Jesuiten auf dem Konzil von Trient, Dritte Sitzungsperiode 1562/1563," in *Ignatianisch: Eigenart und Methode der Gesellschaft Jesu,* ed. Michael Sievernich and Günter Switek (Freiburg: Herder, 1990), 235–53, at 244, 251–53; Dorothea Wendebourg, "Die Ekklesiologie des Konzils von Trient," in *Die katholische Konfessionalisierung: Wissenschaftliches Symposium der Gesellschaft zur Herausgabe des Corpus Catholicorum und des Vereins für Reformationsgeschichte 1993,* ed. Wolfgang Reinhard and Heinz Schilling, Schriften des Vereins für Reformationsgeschichte 198 (Gütersloh: Gütersloh Verlagshaus, 1995), 70–87, at 77–80, denying conciliarist inspiration, but Klaus Ganzer argues from the fear of papal officials for the survival of conciliarism at Trent ("Das Konzil von Trient und die theologische Dimension des katholischen Konfessionalisierung," 50–69); Marek Sygut, "Natura e origine della potestà dei vescovi nel concilio di Trento (1545–1563)," *Periodica de re canonica* 88 (1999): 259–300.

161. COD, 2:798.

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of theologians in the councils from Pisa I to Trent.[162] Conciliar concerns over the advance of Islam have been surveyed in passing by Kenneth Setton.[163] Georg Denzler has traced the course of conciliar legislation on clerical celibacy from Constance to Trent.[164] Because the debate over the locus of ultimate authority in the church continued to find a forum in the general councils of the fifteenth and sixteenth centuries, the connections among these councils need to be recognized and studied further if one hopes to understand the differing conceptions of the church that helped to give rise to modern Christianity.[165]

162. Gill, "The Representation of the *Universitas fidelium,*" 177–95; Helmrath, "*Locus concilii.* Die Ortswahl für Generalkonzilien vom IV. Lateranum bis Trient (Mit einem *Votum* des Johannes de Segovia)," AHC 27/28 (1995/96): 593–662; Minnich, "The Voice of Theologians in General Councils from Pisa to Trent," *Theological Studies* 59 (1998): 420–41, "The Changing Status of the Theologians"; *"Wie in dem basilischen Concilio?"*

163. Kenneth M. Setton, *The Papacy and the Levant, 1204–1571,* 4 vols., Memoirs of the American Philosophical Society 114, 127, 161, 162 (Philadelphia: American Philosophical Society, 1976–84); for the two basic attitudes of confrontation versus conciliation prevalent among Christian writers, especially in Spain, but with very little attention given to attitudes expressed at the councils, see Beatriz Alonso Acero, "Los caracteres de la polemica cristiana contra el Islam entre Basilea y Trento," *Hispania sacra* 51 (1999): 516–30.

164. Georg Denzler, "Grundlinien der Zölibatsgeschichte vom Constanciense bis zum Tridentinum (1414–1545)," in Bäumer, *Von Konstanz nach Trient,* 343–62.

165. A major contribution in this area has recently been made by Francis Oakley, *The Conciliarist Tradition: Constitutionalism in the Catholic Church, 1300–1870* (Oxford: Oxford University Press, 2003).

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2

Aeneas Sylvius Piccolomini and the Histories of the Council of Basel

EMILY O'BRIEN

"It is a misfortune of mine and a fate by which I am plagued that I cannot steal away from history and use my time more profitably."[1] Aeneas Sylvius Piccolomini puts forward this resigned and rhetorical lament in the preface to the *Two Books on the Proceedings of the Council of Basel* (*De gestis concilii Basiliensis commentariorum libri II,* 1439–40), one of his many works of contemporary history. Time would prove that Aeneas was not just an irrepressible historian; he also had particular difficulty steering his pen away from the Council of Basel (1431–49). Over the course of the next twenty-five years, Aeneas would continue to revisit this pivotal moment in ecclesiastical history. In 1450, he wrote the *Commentary on the Proceedings of Basel* (*De rebus Basiliae gestis commentarius*), a shorter but more chronologically extensive discussion of the Basel assembly.[2] A dozen years later, having been elected Pope Pius II (r. 1458–64), Aeneas folded an account of the council into his *Commentaries* (*Commentarii,* 1462–64), the monumental autobiographical account of the first five years of his papacy. Discussions of the council's events and members also appear in several of his other works, including *On Fa-*

1. *De gestis concilii Basiliensis commentariorum libri II,* ed. and trans. Denys Hay and W. K. Smith (Oxford: Clarendon, 1967), 2: "Nescio quae mea calamitas est quibusve urgeor fatis, ne me historiae furari sciam tempusque meum utilius consumere." All English translations of the *De gestis* offered here are taken from this edition.

2. *Der Briefwechsel des Eneas Silivus Piccolomini,* ed. Rudolf Wolkan, vol. 2, Fontes Rerum Austriacarum: Diplomataria et Acta, 2nd ser., vol. 67 (Vienna: Hölder, 1912), 164–228.

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mous Persons (*De viris illustribus,* 1440–50), *Germany* (*Germania,* 1457), and dozens of his letters.[3]

It would be difficult to deny the significance of Aeneas's writings on the Basel council. His accounts, and specifically his description of the assembly's composition, lie at the root of many later histories of this event.[4] Still more important, these works offer the rare perspective of an eyewitness and participant. Aeneas held many administrative positions at the council, including *abbreviator major,* master of ceremonies at the papal conclave, and secretary to Felix V; and he took part in some of the assembly's most significant victories. He also played a central role in its demise. By the mid 1440s, Aeneas had retreated from his conciliarist stance and, as secretary to Emperor Frederick III, helped to forge a peace between Germany and the Roman Church. If Aeneas's administrative prominence at the council renders these writings important, so do his talents as a historian. Aeneas was one of the most respected and prolific humanists of his age. Indeed, the literary habits he once condemned as a "misfortune" have proven anything but to his readers. Today, he ranks among the most distinguished historians of Renaissance Europe.

Despite their significance, Aeneas's writings on the Council of Basel have not enjoyed the attention they so clearly deserve.[5] Given that both the *De gestis* and

3. *Enee Silvii Piccolominei. Postea PII PP. II. De viris illustribus,* ed. Adrianus van Heck, Studi e testi 341 (Vatican City: Biblioteca Apostolica Vaticana, 2001); *Germania,* ed. Adolf Schmidt (Cologne: Böhlau, 1962). For the letters, see *Reject Aeneas, Accept Pius: Selected Letters of Aeneas Silvius Piccolomini* (*Pope Pius II*), trans. and intro. Thomas M. Izbicki, Gerald Christianson, and Philip Krey (Washington, D.C.: The Catholic University of America Press, 2006). Aeneas also wrote more theoretical works on conciliar theory, including the *Libellus dialogorum de generalis concilii auctoritate et gestis Basileensium,* vol. 2 of *Analecta monumentorum omnis aevi vindobonensia,* ed. Adam F. Kollar (Vienna: Trattner, 1743), cols. 691–790; and his letter of April 1443 to Hartung von Kappel, in *Der Briefwechsel,* vol. 1, Fontes Rerum Austriacarum: Diplomataria et Acta, 2nd ser., vol. 61 (Vienna: Hölder, 1909), 132–44.

4. See Gerald Christianson, "Aeneas Sylvius Piccolomini and the Historiography of the Council of Basel," in *Ecclesia Militans: Studien zur Konzilien- und Reformationsgeschichte,* ed. Walter Brandmüller, Herbert Immenkötter, and Erwin Iserloh (Paderborn: Schöningh, 1988), 157–84.

5. Aeneas's writings have received periodic attention from leading scholars of conciliar theory, but never a thorough analysis. Luigi Totaro has written twice on Aeneas's histories of Basel: see *Pio II nei suoi "Commentarii": Un contributo alla lettura della autobiografia di Enea Silvio Piccolomini* (Bologna: Pàtron, 1978), especially 36–71, and "Gli scritti di Enea Silvio Piccolomini sul concilio," in *Conciliarismo, stati nazionali, inizi dell'umanesimo: Atti del XXV Convegno storico internazionale Todi, 9–12 ottobre 1988* (Spoleto: Centro italiano di studi suli alto Medioevo, 1990), 47–78. For a brief discussion of Aeneas's conciliar thought and an explanation of why he eventually retreated to the papalist camp, see Morimichi Watanabe, "Authority and Consent in Church Government: Panormitanus, Aeneas Sylvius, Cusanus," *Journal of the History of Ideas* 33 (1972): 217–36; reprinted in his *Concord and Reform: Nicholas of Cusa and Legal and Political Thought in the Fifteenth Century,* ed. Thomas M. Izbicki and Gerald Christianson (Aldershot, U.K.: Variorum, 2001), 59–79. For a detailed chronology of Aeneas's shift from conciliarism to papalism, and for the historiographical impact of his negative portrait of the council fathers, see Christianson, "Historiography of the Council of Basel," 157–84. See also H. Diener, "Enea Silvio Piccolominis Weg von Basel nach Rom," in *Adel und Kirche: Gerd Tellenbach zum 65 Geburtstag dargebracht von Freunden und Schulern,* ed. Josef Fleckenstein and Karl Schmid (Freiburg: Herder, 1968), 516–33; Antony Black, *Monarchy and Community: Political Ideas in the Later Conciliar Controversy, 1430–50* (Cambridge: Cambridge University Press, 1970), especially 40–41,

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the *Commentaries* have been available in modern editions for decades, this neglect cannot be entirely explained by a lack of easy access. It would seem instead that Aeneas's writings on the council have fallen into a disciplinary crack. To historians of humanism, who have traditionally dominated scholarship on Aeneas's writings, conciliarism is the territory of theologians and church historians. For those who specialize in the crisis of the fifteenth-century papacy, Aeneas has been dwarfed by such theoretical giants as Nicholas of Cusa and John of Torquemada. And yet scholars in both fields have much to gain from exploring the historical significance of these writings. Aeneas's texts promise both to deepen our understanding of the author as a humanist historian and to clarify his role in the debate over authority and consent in the late medieval church. The following pages begin such a study by examining the two texts that focus exclusively on the history of the council: the *De gestis* and *De rebus.*

For years, scholarly interpretations of Aeneas's two histories have been limited by a narrow definition of context. In the case of the *De gestis,* for example, historical context has been traditionally interpreted as Aeneas's own professional ambitions. As a result, the work is often classified as simply mercenary in nature: written while Aeneas was secretary to the newly elected Felix V, the *De gestis* was meant to assure the author's position at the conciliar court at a time when his alternatives were few and "uncertain."[6] The most detailed study of the *De rebus,* in turn, connects this later history with Aeneas's changed relationship to the council. Because he was secure in his position as bishop of the Roman Church, it concludes, Aeneas had no desire "to give the work any apologetic character."[7] The *De rebus* is also often defined in terms of the pro-conciliar *De gestis;* to some, it is a recasting of this earlier text; to others, a continuation and completion.[8] Scholars tend to agree, however, on a broad and ultimately ambiguous definition of the work's intellectual significance—a definition that echoes Aeneas's own introduction to the text: the *De rebus* offers a record of the schism for "the memory of posterity."[9]

49, 82, 116–17, 122–23; and Joachim Stieber, *Pope Eugenius IV, the Council of Basel, and the Secular and Ecclesiastical Authorities in the Empire: The Conflict over Supreme Authority and Power in the Church* (Leiden: Brill, 1978). See also the letters that relate to the conciliar controversy in Izbicki, Christianson, and Krey, *Selected Letters of Aeneas Silvius Piccolomini.*

6. Totaro, "Scritti sul concilio," 49. See also the introductory remarks in *De gestis,* xxvi–xxvii.

7. Totaro, "Scritti sul concilio," 74.

8. For a reading of the *De rebus* as a "revision" of the *De gestis,* see Christianson, "Historiography of the Council," 166–67; and *De gestis,* xxix. Cf. Totaro, who suggests the *De rebus* might instead be seen as "the final and completed version" of Aeneas's earlier history of the council; see "Scritti sul concilio," 71–72.

9. *Der Briefwechsel,* 1:164. For such interpretations, see Christianson, "Historiography of the Council,"166; Totaro "Scritti sul concilio," 73. Cf. *De gestis,* xxix, for a brief and puzzling explanation of the *De rebus* as a justification for *Execrabilis,* a bull Aeneas issued years later as pope.

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What is missing from all these discussions of the *De rebus* and the *De gestis* is a close analysis of the texts themselves, and one that studies the specific features of each in a context broader than the author's own writings, personal aims, and interpretive labels. Adopting such an analytical approach results in a significant reevaluation of these two works. The *De gestis* and the *De rebus* both read as carefully crafted apologies, and apologies on more than one level. Not only do they shield Aeneas's own professional interests, but they also defend against specific threats the larger ideals with which he was aligned. The details of the narratives make clear that while not an original thinker, Aeneas was well versed in the central arguments of both conciliarists and papalists. As vehicles for transmitting these ideas, the *De gestis* and *De rebus* must thus be considered important contributions to the debate over sovereignty in the fifteenth-century church.

Two Books on the Proceedings of the Council of Basel (*De gestis*)

The climate of uncertainty in which Aeneas penned his first conciliar history extended beyond his own professional future to that of the council itself. The *De gestis* came on the heels of the council's most radical moves yet—the deposition of Eugenius in June 1439 and the election of Felix V in November of that same year—and amid a growing tide of discontent and criticism.[10] The council fathers had alienated not only moderate supporters by their recent actions, but also secular princes seeking to reconcile Eugenius IV and the Basel assembly. The council's defiant stand of independence erased any hope for such a rapprochement while brusquely dismissing the princes' tireless efforts for peace.[11] In response, some rulers, like the king of Castile, withdrew their support for the council outright. France and Germany, which had already adopted some elements of the fathers' reform legislation in the Pragmatic Sanction (1438) and Acceptation of Mainz (1439) respectively, declared themselves neutral in the dispute. Milan and Naples sided now with Eugenius, now with the Council of Basel, depending on what was politically expedient. Indeed, all the secular powers were to some degree motivated by political interests. By endorsing the council fathers, they risked potential retaliation by Eugenius and his supporters; and by embracing Eugenius's deposition, they would be condoning a theory of government potentially harmful to their own claims to monarchical sovereignty.[12] Without the full support of these

10. For a discussion of these events, see Stieber, *Eugenius IV,* 44–57.
11. Ibid., 173–89; Black, *Monarchy and Community,* 97–98.
12. See Stieber, *Eugenius IV,* 58–71, 183–89; Black, *Monarchy and Community,* 86–90.

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rulers, it was difficult for the council to translate its claims to sovereignty into real power and influence.

If the council's authority was threatened by the princes' lack of commitment, then it suffered still more from the sharp criticism and comparative successes of the papalist camp. In the months following his deposition, Eugenius fought back against the council on various fronts. He continued both in his own pronouncements and, with the help of supporters like John of Torquemada and Piero da Monte, in circulating damaging images of the council fathers. According to the papalist camp, the men who remained at Basel were disrespectful of authority, discipline, and obedience; they caused rebellions and discord; and they found their inspiration in selfish ambition.[13] At the same time, Eugenius issued his strongest condemnation yet of conciliar theory in his bull *Moyses vir Dei* (September 9, 1439). Here, Eugenius responded directly to the council fathers' formal pronouncement five months earlier that the decree *Haec sancta* was a truth of the catholic faith.[14] The pontiff further defended his position by vigorously promoting the idea that conciliarist attacks on papal primacy would inspire popular governments to overthrow secular monarchies. Opposing the Basel assembly, he and his advocates argued, was thus in the best interests of the princes.[15] Eugenius bolstered these verbal assaults with victory on a different front: on July 6, 1439, he pronounced the Eastern and Western churches reunited in the bull *Laetentur coeli.* The union was ultimately short-lived, but in 1439 and 1440, when Aeneas was writing the *De gestis,* it represented a significant triumph for the council's most formidable enemy. Eugenius now appeared even more powerful next to the council fathers, for while the latter had brought upheaval to the church by causing a new schism, the former could claim to have brought peace by mending one of its oldest and most painful rifts.

This, then, was the context in which Aeneas completed his *De gestis.* Faced with both theoretical counterattacks and character assassination, the council fathers found themselves turning away from issues of reform to a defense of their

13. Eugenius's attacks represent part of a "diplomatic offensive" that he had begun in earnest in the summer of 1436. See Stieber, *Eugenius IV,* 35; and Black, *Monarchy and Community,* 90, 97–99.

14. Stieber, *Eugenius IV,* 43–44, 54, 192–93. The text of *Moyses vir Dei* can be found in *Epistolae pontificiae ad concilium Florentinum spectantes,* ed. Georg Hoffman (Rome: Pontificum Institutum Orientalium Studiorum, 1944), 2:101–6. For the English translation, see C. M. D. Crowder, *Unity, Heresy, and Reform, 1378–1460: The Conciliar Response to the Great Schism* (New York: St. Martin's, 1977), 172–77. For the debate between Cardinal Cesarini and John of Torquemada held when the decree was issued, see Torquemada, *A Disputation on the Authority of Pope and Council,* trans. Thomas M. Izbicki (Oxford: Blackfriars, 1988).

15. Papalists had been shaping and promoting this idea already for some time; see Black, *Monarchy and Community,* 86–90, 93–96, 99–102.

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tarnished image and controversial moves.[16] They insisted that the council was the very key to ecclesiastical order and obedience, and they threw back at Eugenius the same accusations he had leveled at their own assembly.[17] Aeneas's *De gestis* fits smoothly into this atmosphere of retaliation. The text offers a similar counterattack to these papalist assaults and victories, and to the growing isolation the council faced in the wake of Eugenius's deposition.

Aeneas begins to rehabilitate the council's image with his choice of subject matter. Rather than chronicling the assembly from its very beginnings in 1431, he narrows his focus to a particular series of events in 1439. Book 1 reviews the council's debate from March through May about a series of resolutions proposing that *Haec sancta* be considered an article of faith and that Eugenius be deemed a heretic. It also recounts the fierce but futile attempt by the princes' ambassadors, still committed to a conciliatory path, to stall the vote on these resolutions.[18] The shorter second book describes the election of Duke Amadeus VIII of Savoy as Felix V.[19] At the beginning of book 1, Aeneas explains that he starts the narrative eight years into the council because he "could not write when nothing was happening."[20] But to anyone familiar with the Basel assembly, these words ring hollow. By choosing to focus on these particular events, Aeneas was not highlighting the only ones of importance. Rather, he was focusing his attention on the events that had so recently and so seriously weakened the credibility of the council and its aims.

16. Stieber, *Eugenius IV,* 191, "After 1439, the council of Basel was increasingly deflected from its original concern with church reform by the struggle to vindicate its authority. . . . The chief aim of the council of Basel now became to obtain acceptance of its deposition of Eugenius IV and recognition of Felix V as the only legitimate pope. In defending their authority, the council of Basel and Felix faced after 1439 an opponent who defended his cause without doctrinal compromise."

17. Black, *Monarchy and Community,* 98–99.

18. *De gestis,* 7–187, at 21: on May 16, 1439, the council declared as articles of faith the following resolutions: "(1) It is a truth of the catholic faith that the holy general council holds power over the pope and anyone else (2) The Roman pontiff of his own authority can neither dissolve nor transfer nor prorogue the general council when lawfully assembled without its own consent, and that is part of the same truth (3) Whoever obdurately opposes those truths must be deemed a heretic." Five additional resolutions were passed on June 23, 1439. At the beginning of book 1 of the *De gestis,* Aeneas spends a few pages (7–17) reviewing events at the preceding diets of Nuremberg (October 1438) and Mainz (March 1439).

19. Ibid., 188–255. Scholars have debated whether Aeneas's original text contained still another book, one that covered the span of time between the conclusion of book 1 (May 1439) and the beginning of book 2 (October 1439). An analysis of both the manuscript tradition and the text itself suggests that while Aeneas intended to expand the existing work, he never wrote more than is extant. On this debate, see especially *De gestis,* xxviii–xxix, xxxix; Totaro, "Scritti sul concilio," 49–52; Cecilia Ady, *Pius II (Aeneas Silvius Piccolomini), the Humanist Pope* (London: Methuen, 1913), 290; Georg Voigt, *Enea Silvio de' Piccolomini, als Papst Pius der Zweite und sein Zeitalter,* 3 vols. (Berlin, 1856–63), 1:230. In several manuscripts and printed editions of the *De gestis,* a letter from Aeneas to John of Segovia about the coronation of Felix V appears as book 3 of the text. The letter is also printed in *Der Briefwechsel,* 1:105–10.

20. *De gestis,* 6, "nec enim scribere potui cum nihil fieret."

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The focus Aeneas gives to each part of his account further confirms the work's essentially defensive nature. In book 1, for example, he spends little time discussing the ambassadors' objections to the resolutions, and their arguments are often summarized rather than related as direct speech. Those who support the resolutions, in contrast, speak at length in defense of their position—and their words are quoted more often than they are reported. In one instance, the president of the council, Cardinal Louis Aleman, spends fourteen pages unfolding his response to a series of ambassadors, who had only five pages to mount their opposition.[21] The imbalance helps to create the impression that on the volatile debate over Eugenius's heresy, the council held the upper hand.

The context of the *De gestis* also explains what at first seems a puzzling emphasis in the text. Aeneas devotes more than a third of book 1 to unfolding the legal, theological, and philosophical arguments that "the general council has authority over the Roman pontiff" and that "the catholic faith orders that belief."[22] The long and detailed discussion interrupts the flow of the narrative—indeed, so much so that the book seems as much a tract on conciliar theory as it does a work of history. Why would Aeneas have embedded this theoretical excursus in his otherwise fluent narrative? And why spend so much time rehearsing the fundamental points of conciliar theory, arguments that had been articulated many times before and by others far more expert than Aeneas? The resolutions passed by the council fathers in 1439 did more than simply reassert the fundamental tenets of conciliar theory; they gave these tenets unprecedented force by identifying them as articles of the catholic faith. Eugenius's swift retaliation against this claim in his bull *Moyses vir Dei* made it particularly important for the council's defenders not only to reassert their declaration, but also to defend it in detail. Here, too, then, Aeneas's choice of emphasis seems dictated by specific and recent papalist attacks against the fathers' claims to authority.

Book 2, in turn, offers a response to contemporary criticisms of the Council of Basel, but this time of the election of its new pope, Felix V. Aeneas recounts the council fathers' solemn debate over when to hold the election, reviews the painstaking process of selecting worthy electors, and offers a sketch of each elector's character and credentials.[23] When discussing the conclave itself, he gives a meticulous account of the events, participants, and rules, from voting procedures to dining regulations.[24] Because Aeneas participated in these events, he could de-

21. The ambassadors' speeches are summarized on 97–107. Cardinal Aleman's speech spans 107–32. On this, see also Totaro, "Scritti sul concilio," 57–59.

22. *De gestis,* 34.

23. Ibid., 188–222.

24. Ibid., 222–54.

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scribe them in remarkable detail. But knowledge alone does not explain why he chose to include this information in his narrative. Whether he intended to or not, Aeneas succeeded in lending a sense of transparency to what otherwise would be very mysterious proceedings. To those suspicious of the election process and doubtful of the results—and there were many who fit this description—Aeneas's account offered reassurance about both the council's motives and its actions.

If Aeneas helped to buttress the council with what he included in his narrative, he also did so in how he presented his main characters. From the beginning of the *De gestis* to the end, Aeneas adopts the exaggerated style of epidiectic rhetoric to give a very flattering portrait of the council fathers. Those supporting Eugenius's heresy—a mix of prelates and lower orders—are painted in colors that contrast sharply with the negative images circulated by the Eugenians and with their criticisms of conciliar government. Far from rebellious and disorderly, the fathers consistently appear to be mild-mannered, courteous, and patient while conducting the debate over the resolutions.[25] According to Aeneas, moreover, they follow a just and honorable process when choosing the new pope's electors and select only men with impeccable credentials.[26] All who participate in the conclave are shown working together obediently, quietly, and with the greatest respect and harmony. "There were no quarrels and no disputes," Aeneas reports. "Everything took place in friendship and affection. . . . No pride, spite, or anger prevailed, each being satisfied with his own position."[27] To those warning against the dangers of conciliar government, such images served as a much-needed counterattack: decision making in such an assembly was hardly a hotbed for confusion, disorder, and private ambition, as the Eugenians liked to claim.

Aeneas makes a point of praising what the council fathers' argue as much as how they carry themselves in such debates. According to the accounts in the *De gestis,* they spoke with great eloquence, learning, and conviction; and their exhaustive defense of the first three resolutions is presented as thoroughly convincing.[28]

25. For example, according to Aeneas, John of Segovia spoke *submisse* in his first exchange with Panormitanus (ibid., 22). When the bishop of Ardjisch goes too far with his criticisms of Panormitanus, Aeneas records, he apologizes (26). And the cardinal of Arles demonstrates considerable restraint when the archbishop of Milan, Francesco Pizzolpasso, insults him (*At cardinalis, ut est patientissimus iniuriarum, nullaque prorsus contentione provocabilis*) (108). See also 136, 140, 184.

26. Ibid., 198–220.

27. Ibid., 240, "Nullae illic rixae, nullae contentiones, omnia in amicitia, omnia in dilectione fiebant. . . . nulla superbia, nullus livor, nulla simultas vigebat, suus cuique status placebat."

28. John of Segovia is described as *theologiae peritissimus* and the bishop of Ardisch *non solum eloquens sed etiam animi plenus* (ibid., 22–24, 26). Later, Aeneas describes the bishop of Burgos's defense of the first three resolutions: "quem sermonem sic ornate, sic suaviter disputavit, sic docte atque mirifice ut omnes ab eius ore avide dependerent, iam non, ut in aliis fit, orationis finem sed longam continuationem desyderantes, ipsumque unicum esse scientiae speculum praedicarent" (28). When Aeneas completes the theoretical excursus in defense

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Here, too, the significance of Aeneas's tone seems best understood in the circumstances in which he was writing. In the wake of *Moyses vir Dei* and other papalist assaults on conciliar theory, it would have been particularly important to describe the conciliarist stance as both wise and unassailable.

Papalist retaliation also seems to explain another element that Aeneas includes in his account. More than once, he breaks into his narrative to offer praise for the city council of Basel. He notes its presence at the ecclesiastical assembly, stressing how its members functioned as a source of order.[29] "They showed amazing discretion," Aeneas reports, "so that no one right up to now has ever had a complaint against them that they had broken trust."[30] At a time when papalists were attacking corporate rule in temporal as well as ecclesiastical contexts, comments such as these would have served to buttress still further his defense of conciliar government as stable, rational, and orderly.

The image Aeneas paints in the *De gestis* of the council's enemies would, in turn, have had a particular resonance in the face of papal counterattack. The targets in Aeneas's text are the prelates and princely ambassadors who, holding out for a peaceful resolution with Eugenius, try to stall the passing of the resolutions designed to overthrow him. Aeneas's weapons of assault are the very ones that had been used against his own conciliar camp. If anyone was disorderly and undisciplined, he contends, it was those who rejected the resolutions, not the ones who supported them. Throughout the *De gestis,* the objecting ambassadors appear as rude and unruly, interrupting the council fathers when they talked and threatening them if they should depose the reigning pope.[31] Their central goal is to "cause confusion," Aeneas claims from the very beginning of his account;[32] and, with evident disapproval, he describes how their behavior deteriorates still further when the fathers gather to read aloud the resolutions. To prevent them from being heard, the ambassadors and their allies decide to scream and shout at

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of the first three resolutions, he writes: "nec aliquem modo existimo de tribus primis conclusionibus addubitare" (94). See also 106, 132–34, 138.

29. Ibid., 134, "Aderant etiam cives ex senatu urbano, provisuri ne quid scandali oriretur. Servaverunt enim semper hunc morem cives ut in omni negotio adesse curarent quod partiturum dissensiones arbitrarentur, illud praecipue adcaventes ne qui tumultus fierent, neve aliae quam verbales rixae."

30. Ibid., 134, "Miraque adeo sapientia sunt ut nemo usque hodie querelam adversus eos habuerit violatae per eos fidei."

31. Panormitanus interrupts Segovia early on in the debate and later tells the fathers that the princes will never support the council if the council does not first bend to their will (ibid., 26 and 108). See also 100.

32. See ibid., 18, where, according to Aeneas, the archbishop of Milan "vocare alios, excitare torpentes, terrere animatos omnique studio niti ut res ipsa turbaretur." Later, Aeneas recounts how "Mediolanensis et Panormitanus archipontifices, quique cum eis vel regis Aragonum vel ducis Mediolani cooratores erant, magnopere ad impediendum se armabant" (94–96). See also 100, 140.

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the top of their voices.[33] The scene of chaos and disorder that results essentially inverts the specific accusations that papalists had aimed at the council fathers: it is not those challenging Eugenius's authority but rather those defending it who instigated the trouble.

The arguments the ambassadors put forward in defense of their position are no more attractive than their behavior. In reporting the debate over the eight resolutions, Aeneas describes how the ambassadors failed repeatedly to sway others to their views and how quickly they were flustered by their opponents' response.[34] Though themselves often learned and eloquent, Aeneas writes, they seemed at times to have "forgotten" their learning.[35] By undermining the claims as well as the character of Eugenius's defenders, while ennobling those of his enemies, the *De gestis* once again responds to some of the damning attacks that the papalists had mounted against the Basel assembly.

But there is still another level on which these images engage with the accusations launched against the council fathers in the years the *De gestis* was written. The Eugenians gathered at the Council of Florence also struck hard at the motives behind the council's radical moves. The fathers who deposed Eugenius were driven by their own interests and ambitions, they claimed, not by a commitment to the good of the church. This was not the first time such accusations had been leveled at the council, but they became much more potent once it was clear that the fathers would never agree to compromise their authority. In this context, the Basel assembly needed more than ever to exonerate itself and its new leader from these charges of greed and selfishness, and to reiterate the claims on which their power rested: that that council's actions and decisions were necessary for the good of the church, that they were fueled exclusively by a desire to protect the church's well-being (*bonum ecclesiae*), and that the council's authority had divine sanction.

This is precisely the portrait Aeneas paints in the *De gestis* of those supporting the council's resolutions. The dominant image with which they are associ-

33. Ibid., 134–53.

34. See, for example, ibid., 22, where Panormitanus makes an argument described as *magis laudata quam probata;* and where, after listening to Segovia's response, he leaves the meeting *inquietato paululum* (28). In a later speech, according to Aeneas, Panormitanus "non ut oratores praecipiunt benevolentiam, sed odium captare ab auditoribus visus est"(158).

35. See, for example, ibid., 26, where he claims that Panormitanus "tantumque ea die seipsum et scientiam suam, quae utique maxima est, deseruit ut Papam ecclesiae dominum asseverare non vereretur." When the bishop of Burgos raises objections to some of the resolutions, Aeneas observes that "visus est aliquantisper a seipso discedere Burgensemque esse desinere. Nec enim ille in verbis lepor, nec illa in oratione gravitas, aut in vultu hilaritas apparebat" (30). See also Aeneas's comments about an interjection by Ludovico Pontano: "qui . . . ubi tamen occeperat, retinere verba nesciebat, et cupiens doctus videri bonum se fore obliviscebatur"(158–60).

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ated is that of the early Christian martyrs: in their willingness to relinquish their benefices, to forfeit their titles, and to endure the plague that swept through the city of Basel, the council fathers were living examples of self-sacrifice for the sake of the church. Cardinal Louis Aleman, the president of the council and one of Eugenius's most vociferous enemies, invokes the image most powerfully in responding to a speech by Panormitanus:

> Yet you most reverend fathers, will not fear at all those that kill the body but cannot kill the soul. You will not abandon the truth even if your blood has to be bestowed on the church. For we ought to be no slacker or more lukewarm for the sake of our mother, the church and for the catholic faith than those most holy martyrs of God, who founded the church upon their blood.[36]

No political influence or desire for personal gain was at work in these ranks, Aeneas reports. On the contrary, he argues, the only guide they followed was God's will: it was God who denied Eugenius greater power over the council than the council itself;[37] God who saw to it that the resolutions against Eugenius were passed;[38] and God who "came to the rescue of his church, and bestowed a shepherd on his flock."[39] And he explains how, at the beginning of the conclave, each pledged he would seek "nothing but the well-being of the Christian people and the good of the whole church."[40] Far from saboteurs of the bonum ecclesiae, these men come across in the *De gestis* as its ultimate defenders.

And the fathers proved their ambitions still more, Aeneas recounts, by electing a pope with similar interests at heart. Amadeus of Savoy is described at length in book 2 as a man of great piety and reverence who had voluntarily retreated into a life of prayer and asceticism.[41] Aeneas lays particular emphasis on Amadeus's

36. "Vos autem, reverendissimi patres, eos nequaquam timebitis qui occidunt corpus, animam autem non possunt occidere. Nec veritatem relinquetis, etiam si oporteat vestrum sanguinem ecclesiae elargiri. Nec enim remissiores aut tepidiores pro matre nostra ecclesia, et fide catholica esse nos decet quam martyres illos Dei sanctissimos, qui ecclesiam in suo sanguine fundarunt" (ibid., 128).

37. "Iuvit tamen Deus ecclesiam suam, nec plus Eugenium in Concilio quam ipsum concilium posse voluit" (ibid., 148).

38. In reference to the passage of the resolutions, Aeneas writes: "Communis tamen omnium opinio fuit hoc Spiritus Sancti magis quam ipsius Arelatensis opus fuisse" (ibid., 150). Later, speaking about a supporter of the resolutions, he observes: "Vox eius vox Spiritus Sancti fuit" (168). See also 170: "fuitque utraque miraculosa conclusio et praeter spem omnium, vel Arelatensis industria vel Spiritus Sancti munere habita."

39. Aeneas elaborates this last point: "Quocirca mentita est iniquitas Gabrieli, et perdidit eum Dominus in malitia sua; quo Synodali sententia ex apostolica sede praecipitatio, factus est Dominus in refugium ecclesiae, gregique suo pastorem largitus est, qui derelicta (ut spes optima est) visitabit, dispersa quaeret, confractum sanabit, carnes pinguium non comedit, et id quod stat sapienter enutriet" (ibid., 188).

40. "Nil aliud . . . quam populi Christiani salutem et universalis ecclesiae bonum" (ibid., 226–28).

41. The full defense of Amadeus is found in ibid., 244–52.

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sense of justice, and on his willing self-sacrifice for both the good of his people and the glory of God. "He has never allowed the poor to be oppressed or the weak to be deceived," Aeneas writes, and "he considered he was wealthy enough if he knew that his fellow countrymen had plenty."[42] Aeneas explains how, "despising secular pride and disregarding all worldly pomp . . . [Amadeus] withdrew into a hermitage, where he built a monastery . . . banishing himself into the service of God."[43] With the help of these and other details, the portrait of Amadeus in the *De gestis* offers a powerful response to those who had accused the duke of greed and lust for power.

Aeneas reinforces his case by transferring to his attackers the very criticisms they had used to condemn his camp. His portrait of Eugenius is a case in point. The pontiff is described as the "destroyer of the church" (*devastator ecclesiae*) and as a leader ruled by "rashness, desire, ambition, and inequity" (*temeritas, libido, ambitio* and *iniquitas*). His aims are described as "most sinful" (*nephandissimi*) and his crimes range from threats and pillagings to persecutions and torture.[44] Aeneas levels the same accusations at the army of papalists defending the pontiff and, at times, he even seems to be responding to new ideas of papal power taking shape at Eugenius's council in Ferrara: "For there are some, who either through eagerness for fame, or because they expect rewards for flattery, begin to preach certain foreign and entirely novel doctrines and do not fear to exclude the supreme pontiff himself from the jurisdiction of the holy council. For ambition has blinded them."[45] Here and elsewhere, these men come across as uniformly self-seeking and dangerous troublemakers, subverting the church's welfare to satisfy their own interests and the greed of Eugenius. The papalists "seek to uphold the *libido* of a

42. "Nunquam vel inopes opprimi vel circumvenirie imbecilles permisit. . . . Satisse divitem existimans, si patricolas abundare" (ibid., 244).

43. "Contempto nanque seculi fastu, omnique pompa mundiali despecta,. . . in eremum concessit, ubi constructo . . . monasterio, in servitium Dei se relegavit" (ibid., 247).

44. The cardinal of Arles voices most of these criticisms: "Nempe omnia libidini Eugenii ac temeritati iam diu commissa fuissent, victorque nephandissimi propositi sui ille fuissent, nisi quos modo spernitis inferiores sibi restitissent. Hi sunt qui privationem ab Eugenio factam contempserunt; hi sunt qui minas, qui spolia, qui persecutiones ipsius flocci fecerunt; hi sunt qui capti, qui incarcerati, qui fustibus caesi pro veritate Concilii non timuerunt; hi sunt qui, licet dati praedae per Eugenium forent, remandere tamen in sacro Concilio voluerunt. . . . Audire potuistis medias inter tribulationes inferiores istos alta voce dicentes: 'et si omnes devastatori ecclesiae obediunt Eugenio, . . . nos . . . mori non dubitamus'" (ibid., 120–22). See also the cardinal's later comments: "Necessariumque illud fuisse decretum asseruit ad reprimendam Romanorum pontificum ambitionem, qui se supra universalem ecclesiam extollentes, omnia pro libidine sua se posse arbitrabantur" (184). See also what Aeneas observes at the beginning of book 2 on 188 (quoted above, note 40).

45. "Sunt enim aliqui, sive avidi gloriae, sive quod adulando praemia expectant, qui peregrinas quasdam et omnino novas praedicare doctrinas coeperunt, ipsumque summum pontificem ex iurisdictione sacri Concilii demere non verentur. Excaecavit nanque illos ambitio, schismata suborta reperiuntur" (ibid., 48).

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single man," Aeneas reports the fathers saying, and he condemns Eugenius and his defenders for putting the "private before the public good."[46]

The *De gestis* attributes similarly damning motives to the princes' ambassadors. According to Aeneas, they are little more than political puppets, working for the secular interests of the princes and kings by whom they are employed. Aeneas singles out for attack Nicholas de Tudeschis (Panormitanus) and Ludovico Pontano, both learned ambassadors of King Alfonso of Aragon and among the most vocal opponents of the resolutions. Political obligation alone drives these men to protest the resolutions, Aeneas proclaims; indeed, in their hearts they believe the very opposite of what they argue. When describing how Pontano makes a weak case in favor of postponing the vote, Aeneas explains that the ambassador "spoke neither willingly nor gladly on the matter and that [he] wanted nothing more than not to get what he asked."[47] The hypocrisy of Panormitanus receives a still more colorful dramatization. After the resolutions are passed, Aeneas writes: "It also became generally known that Panormitanus, when he came to his house retired to his bedroom and after complaints to himself about his king for compelling him to fight against the truth and to endanger his reputation and his soul, in the midst of tears he fell asleep."[48] By showing the foremost opponents of the resolutions as privately recanting their public arguments, Aeneas cleverly turns the tables on those who had abandoned the council. Here, it is the ambassadors, not the council fathers, who prove dangerous to the bonum ecclesiae by masking the truth.[49]

It is worth noting that here and elsewhere Aeneas directs his accusations in the *De gestis* to the representatives of the princes, not to the princes themselves. The distinction is made most clearly when Panormitanus threatens that Alfonso of Naples will work to destroy the council should the fathers go through with passing the resolutions. Louis Aleman responds to this threat with disbelief. "Nor do I see why the princes want this adjournment so much," he observes. "There is no letter from the princes about this proposal. . . . do not believe that they will trample on their mother, the church. Do not imagine that they are so

46. Aeneas writes that the papalists "dum unius hominis libidinem sustinere conantur, dumque privatum bonum communi antevertunt, incredibile est quantas errorum nebulas excitent" (ibid., 56–58).

47. "Sed est ignoscendum memoriae hominis, qui nec libens nec laetus in hac re loquebatur, quique nihil magis cuperet quam quod peteret non impetrare" (ibid., 104). On Pontano's reluctant defense of Eugenius, see also 96, 108, 160.

48. "Plus quoque in vulgus de Panormitano relatum est, illum scilicet, postquam domum venit, in cubiculum se recepisse, secumque de rege suo questum, quod eum adversus veritatem pugnare compelleret, et suam famam suamque animam ire perditum; mediasque inter lachrymas obdormivisse" (ibid., 152). See also 108 and 172.

49. See also the remorse shown by the bishop of Lübeck and the bishop of Tours for defending their princes and defying the council at ibid., 182.

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greatly estranged from the truth that they wish justice to be suppressed." And to this disbelief, he appends a warning: "The resolutions under discussion are true, approved, holy. If the princes should reject them, they will set themselves in opposition not to us, but to holy scripture and Christ himself."[50] By separating prince from ambassador, Aeneas seems to hold out hope that the secular rulers will still join the council's cause. Indeed, they might even be swayed by his own defense of the council's actions in the *De gestis.* Whether or not he envisioned these princes as the audience of his work, Aeneas's words sounded a powerful warning to anyone who opposed the council's radical moves of 1439 and, as such, added a new weapon to what was already a sophisticated counterattack against the council's enemies and its lukewarm friends.

Commentary on the Proceedings of Basel (*De rebus*)

"But in that tract about the Council of Basel which . . . I had almost finished writing . . . I have to change a good deal because the ending was not the one I envisioned. For this reason, it is dangerous to write about the history of current affairs; the distant past can be written about without peril."[51] Aeneas wrote these words not about the *De gestis,* but about his second historical work on the Council of Basel, the *Commentary on the Proceedings of Basel* (*De rebus Basiliae gestis commentarius*). The changes Aeneas found himself making to this work followed a series of transformations in his own perspective on authority and consent in the church. In 1442 he left the service of Felix V and joined the neutral party as secretary to Emperor Frederick III. Three years later, he repented of his conciliarist past at the feet of Eugenius IV and pledged himself to defend the absolute monarchy of the papacy. The most significant evidence of his new commitment was brokering the peace between Germany and the papacy. By the time he finished the *De rebus,* the council had dissolved and its elected pope, Felix V, had resigned and died. Aeneas himself, now a proven defender of the church, had been promoted to bishop of Trieste (April 1447) and three years later of his hometown, Siena.

The professional context in which Aeneas penned the *De rebus* was clearly very

50. "Nec video cur principes hanc dilationem tantopere quaerant. Nullae super hac petitione sunt literae principum. . . . ne credite illos matrem suam suppeditaturos ecclesiam. Non putate eos tantopere a veritate alienari ut iustitiam supprimi velint. Conclusiones de quibus agitur verissimae sunt, probatissimae sunt, sanctissimae sunt. Si eas respuant principes, non nobis, sed sacrae scripturae et ipsi Christo se opponent" (ibid., 126–28).

51. "Sed in tractatu de concilio Basiliensi, quem . . . jam pene absolveram . . . multa me mutare oportet, quia non ille finis secutus, quem putavi, atque idcirco periculosum est currentium rerum historiam texere; preterita dudum sine periculo scribuntur"; see *Der Briefwechsel,* 2:100.

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different from that of the *De gestis,* and yet, when he wrote this later work, he still found himself in much the same position as when writing the former: he was on the defensive. Indeed, writing about current events was hardly the greatest "peril" Aeneas faced when he picked up his pen. Having participated in the Council of Basel and having endorsed it vociferously in writing, Aeneas in essence needed to defend himself from himself. His prominent past as conciliarist meant his credibility could easily be questioned, and as he rose through the church hierarchy, the consequences of such doubts became increasingly serious.

And if Aeneas himself needed defense, so did the ecclesiastical ranks with which he now fought. While the council slowly fell to its demise in the 1440s, conciliarist theory itself remained very much alive. Bohemia still recognized the council's decree of 1436, the Twelve Compacts, which had legalized the distribution of Communion under both species, bread and wine (*sub utraque specie*), and which Rome had repeatedly denounced as heresy. In Germany, too, conciliarist sentiment remained particularly resilient, especially in universities and among the clergy.[52] But it was the French court that represented a still greater threat to the papacy, both because of the nature of its support for conciliar theory and because of the king's larger political designs. Charles VII continued to enforce the Pragmatic Sanction of Bourges.[53] The king's ambitions to snatch the imperial crown from the weak Frederick III, to return the papacy to France, and to launch a crusade himself made his anti-Roman stance more menacing still.[54] In short, conciliarism still enjoyed significant political support in post-Basel Europe, and the weakness of the papacy's principal ally, Frederick, gave papalists of this period still more reason to be fearful.

The *De rebus* must be read as a response both to these professional pressures and to the broader threats felt by the papacy at this point in time. Rather than a continuation and extension of the *De gestis,* as one scholar has argued, the *De rebus*

52. *Defensorium obedientiae apostolicae et alia documenta,* ed. Heiko Oberman, Daniel E. Zerfoss, and William J. Courtney (Cambridge, Mass.: Belknap, 1968), 14; Hubert Jedin, *History of the Council of Trent* (London: Nelson, 1949), 1:32–37; Black, *Monarchy and Community,* 128–29; Stieber, *Eugenius IV,* 72–113, 336–42. See also Francis Oakley, *Council over Pope? Towards a Provisional Ecclesiology* (New York: Herder & Herder, 1969), *The Western Church in the Later Middle Ages* (Ithaca: Cornell University Press, 1979), and *The Conciliarist Tradition: Constitutionalism in the Catholic Church, 1300–1870* (Oxford: Oxford University, 2003).

53. For a discussion of the Pragmatic Sanction, see especially Noël Valois, *Le pape et le concile (1418–1450),* vol. 2 (Paris: A. Picard et fils, 1909); Stieber, *Eugenius IV,* 64–71.

54. For France's imperial and papal ambitions, see especially Riccardo Fubini, introduction to *La dieta di Mantova e la politica de' Veneziani,* by Giovanni Battista Picotti (1912; repr., Trent, 1996), vii–xx. See also Marco Pellegrini, "Pio II, Il collegio cardinalizio e la dieta di Mantova," in *Il sogno di Pio II e il viaggio da Roma a Mantova: Atti del Convegno internazionale, Mantova, 13–15 aprile 2000,* ed. Arturo Calzona, Francesco Paolo Fiore, Alberto Tenenti, and Cesare Vasoli (Florence: Olschki, 2003), 32–33.

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serves to replace and correct this earlier history.[55] At the same time, it works to enhance Aeneas's own image as a leader of the church, and at a time when it could easily be called into question. But while the *De rebus* responds to Aeneas's own needs, it also defends the papacy itself from the myriad threats it faced on the eve of the Jubilee, both from conciliar theory and from the rulers who supported it.

At first glance, the *De rebus* hardly seems a recasting of the *De gestis.* For one thing, it covers a much broader chronological scope. The work traces the relationship between council and pope over several decades, beginning with the resolution of the schism at the Council of Constance and concluding with the death of Felix V. What is more, the two events that act as the central focus of the *De gestis,* the debate over the eight resolutions and the election of Felix V, receive scant attention in the *De rebus.* Indeed, there are no detailed records of debates like these in the *De gestis,* and there are far fewer orations and conversations. For the most part, the *De rebus* is pure narrative. And yet, despite the broader focus and the differences of structure and style, Aeneas's second history of the council systematically upends the image of conciliarist power at the heart of his first one. As he did in the *De gestis,* he engages the theoretical arguments of others involved in the debate in order to make his case.

The chronological framework Aeneas gives to his work exemplifies this strategy. Aeneas begins the *De rebus* not just with an overview of the Council of Constance, but also with an explicit contrast between those gathered there and those who attended the assembly at Basel: "While at Constance the fathers seemed to convene with the purpose of mending the peace of the church, in Basel they seemed to disrupt the peace of the Christian people."[56] Though brief, Aeneas's opening comment immediately undermines the very different image of the Basel council in his *De gestis.* And in so doing, it takes up a weapon used by his fellow papal apologists, who routinely contrasted the Councils of Constance and Basel as a way to criticize the latter.[57]

As Aeneas elaborates on the disruptive nature of the council fathers, he again engages his earlier work. In a dramatic reversal of their portraits in the *De gestis,* these men emerge in the *De rebus* as disorderly, undisciplined, and unreasonable. Aeneas laments the law that allowed everyone but the "criminal and disreputable"

55. Totaro, "Scritti sul concilio," 71–72.

56. "Sed Constantiae ad resarciendam ecclesiae pacem, Basileae ad turbandam Christiani populi quietem convenisse patres videntur"; see *Der Briefwechsel,* 2:165. Cf. *De gestis,* 18 (see above, note 33), where Aeneas uses similar language to describe the opponents of the council fathers, the princely ambassadors.

57. On this, see Thomas M. Izbicki, "Papalist Reaction to the Council of Constance: Juan de Torquemada to the Present," CH 55 (1986): 7–20.

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to participate in the council.[58] The result was "a disorderly and imprudent mob" that "can do nothing according to reason and equity (*aequitas*)."[59] And if he transfers to the council fathers the image of unruliness reserved earlier for the princely ambassadors, he also paints them as equally dangerous to the church. The selfless fathers of the *De gestis* are in the *De rebus* "driven by [their] passions."[60] Again and again, Aeneas condemns them as greedy, self-interested, and dangerously negligent of the needs of the Christian community. Indeed, according to the *De rebus,* the good of the church (bonum ecclesiae) was very far from their minds. Aeneas makes his case by casting the turning points in the council's history in distinctly unflattering terms. The numbers swell after Eugenius first dissolves the council in 1431, he contends, not because the new members believed in its cause, but because in keeping with human nature, they were attracted to what was forbidden.[61] Of those who stayed after the second dissolution, Aeneas claims: "nobody remained unless he did not have a benefice [from Eugenius] or who served a prince who cared nothing for ecclesiastical affairs."[62] Aeneas describes their strategies for sponsoring a council with the Greeks as "extortion" and "traps."[63] He explains that they decided to depose Eugenius and elect a new pope not because they were inspired by the Holy Spirit or because they were concerned for the welfare of the church, but because they were desperate to preserve their weakening power.[64]

Perhaps the most damning evidence Aeneas presents of the fathers' greed and ambition is their interpretation of church reform. According to the *De rebus,* it consisted simply of stripping the head of all of its sources of revenue.[65] The fa-

58. "Lex tamen his erat, ne quenquam in dignitate consitutum nisi criminosum atque infamem repellerent"; see *Der Briefwechsel,* 2:175.

59. Aeneas writes: "Sic turba inconsulta facta est, cum docti atque indocti passim admitterentur tantaque multitudo plebeje fecis implevit synodum, ut nulla vox esset nullaque potestas episcoporum, quia non ratione sed numero vota congregationis estimabantur" (ibid., 67:175). And later, he complains that the "indiscretum vulgus . . . nihil ex ratione aequitateque facere" (67:193). Aeneas was to offer still a different criticism of the council's composition in an oration he delivered in December 1452: "Inter episcopos ceterosque patres conscriptos vidimus in Basilea coquos et stabularios orbis negotia judicantes"; see J. D. Mansi, *Pii II Pont. Max. Orationes politicae et ecclesiasticae,* 2 vols. (Lucca: Benedini, 1755–59), 1:231. This image was to exercise considerable influence over later historiography of the Council of Basel. On this, see Christianson, "Historiography of the Council of Basel," 157–84.

60. He describes the "indiscretum vulgus" as "passionibus actum"; see *Der Briefwechsel,* 2:193.

61. "Nec pauciores, ut mea fert opinio, Eugenii prohibitio viros adduxit, quam vocatio conciliaris, ut fit; quia vetitum quicquid est, magis optamus insistimusque negatis" (ibid., 2:177).

62. "Nec quisquam mansit nisi qui sine beneficio fuit vel principem habuit de rebus ecclesiae nihil curantem" (ibid., 2:199).

63. "Hanc pecuniam arbitrati sunt patres ex piis populi largitionibus extorquere" (ibid., 2:189). "Excogitarunt igitur patres novum aucupium" (2:190).

64. "Basilienses, ubi se omni favore destitutos vident, caput habendum censent eligendumque pontificem, sub cuius alis protegi possent" (ibid., 2:200).

65. "In reformatione autem ecclesiae incipiendum esse a capite dicunt, beneque actum putant totumque reformatum, si Romanus pontifex liberas capitularibus relinquat, si nullis reservationibus utatur, si beneficio-

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thers had a very different attitude about reforming the members, Aeneas explains. "How astonishing!" he writes, with a transparent tone of contempt. "What the fathers denied to the pope, they conceded to individual bishops."[66] Their indifference to public usefulness (*utilitas publica*) becomes still clearer in what follows: a long and detailed inventory of all the clerical abuses the council neglected to correct.[67]

Aeneas pairs these general characterizations with similarly scathing portraits of the heroes of the *De gestis.* In one of his most memorable passages, he reports how Cardinal Louis Aleman snuck into the cathedral at Basel on the morning the fathers were to vote on Eugenius's heresy simply so that he could reserve for himself the seat of greatest authority. For more than eight hours, Aeneas relays, the cardinal sat weighted down by his bejeweled miter and still heavier robes, waiting for the ceremonies to begin.[68] Still more radically redrawn is the council's foremost ally and leader, Amadeus of Savoy. Aeneas reports that it was Amadeus's overweening ambition that drove him to seek out the papal throne; he makes a point of noting that the duke accepted the title of pope only on condition that he would receive substantial compensation.[69] As he had the *De gestis,* Aeneas ends the *De rebus* with a vivid portrait of Felix V, but in the latter, rather than hailing him the protector of the church, he concludes with contempt that "he was more useful to the church by dying than by living."[70] In both language and substance, Aeneas joins ranks here with the papal apologists who continued to paint Felix as disastrous for the welfare of Christendom.

Just as the *De gestis* heroes take on in the *De rebus* the characteristics of their

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rum collationes ad ordinarios remittat, si nullas annatas recipiat, si litteras apostolicas gratis elargiatur, si nullas commendet ecclesias" (ibid., 2:187). "Sola reformatio sancta videbatur, si sedes apostolica nuda relinqueretur" (2:188).

66. "Mira res! Quod patres papae negabant, singularibus episcopis concedebant" (ibid., 2:187–88).

67. "Ceterum in communi de moribus, de pietate, de justitia, de modestia cleri ac populi nihil agebatur. Pluralitas beneficiorum, quia multos tangebat, prohiberi numquam potuit. Habitus episcopales, qui apud Alamanos leniusculi sunt, reformari non valuerunt nec arma prohibita sacerdotibus nec venationes aut aucupationes, non fastus nimius sublatus. . . . Non prohibita sumptuosa prandia, non famulatus laicalis, non pecuniaria juditia, non multitudo ignorantium sacerdotum" (ibid., 2:188).

68. "At cum dies sessionis instaret, Ludovicus Arelatensis antelucanos ortus ingressus ecclesiam, susceptis pontificalibus ornamentis tamquam missam celebraturus in faldistorio ad sinixtrum latus are majoris se collocavit locumque Tarentino archiepiscopo subripuit, qui ex legatorum parte eadem moliebatur. . . . timuit enim fraude sibi locum eripi, ob quam rem octo et amplius horis onustam gemmis mitram in capite et indutus graviores ornatus immobilis gestaverit" (ibid., 2:195).

69. "Tandem a duabus partibus et amplius Amedeus, dux Sabaudie, qui tunc in heremo leta manebat, electus est, missique sunt legati ad eum, qui mittente majores fuerunt. Ille difficilem principio sese ostendebat, grave pondus refugere videbatur. Sed avaritia paulum more fecit. Ajebat enim: vos decreta edidistis, ubi annate auferuntur pape. De quo igitur papa vivet? An ego patrimonium meum consumam filioque exheredabo vestri causa? Oportuit igitur promittere provisione." (ibid., 2:200).

70. "ecclesiae moriendo quam vivendo utilior, vel ecclesiae morte quam vita magis placuit" (ibid., 2:228).

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antagonists, so do Eugenius's supporters appear in a good light—and so do their actions seem to benefit the church. The pontiff's decision to transfer the council from Basel to Ferrara—the decision that spurred the Basel assembly to proclaim him a heretic—appears as an act necessary for the good of the church.[71] Aeneas offers a similar defense for John Berardi de Tagliacozzo, archbishop of Taranto and the man who stole the council's official seal in order to authorize the decree that named Ferrara the new location. Describing the bishop as "courageous" and "a man of great judgment," and putting in his mouth the same criticisms of the council he himself had earlier voiced, Aeneas lends support to Tagliacozzo's alleged self-defense.[72] "The deed you reprehend," Aeneas reports him saying to his opponents, "was right and worthy of praise. . . . If I had not already done it, I would do it today. I am more a servant of the apostolic see than of your unruly crowd. . . . I will not deny what I did, and what I did, I did rightly."[73]

In unfolding the *De rebus,* Aeneas does not just shield the papacy from the dangers posed by the earlier *De gestis.* He also defends it from a much broader range of threats it was facing. Toward the beginning of the *De rebus,* he offers a lengthy criticism of the Bohemians, whose Twelve Compacts continued to undermine papal claims to absolute monarchy. Aeneas details their heretical beliefs, condemns their violent behavior, and even makes personal attacks against the delegation that came to Basel.[74] He also launches an assault on France, another of the pope's greatest enemies. When describing the council's plans to strip the pope of all his wealth, Aeneas singles out the greed of the French cardinal Alain de Coetivy: "Either we will snatch the apostolic see from the hands of the Italians through this retaliation or we will weaken it so much that where it remains, it cannot be cared for."[75] Later, Aeneas puts something similarly scandalous in the mouth of the French king. When the European princes are wrestling with how

71. Eugenius, Aeneas implies, was right to override the majority vote, given that the majority consisted of an "indiscretum vulgus" (ibid., 2:193). See also 2:196: "Interim legati ad summum pontificem missi decreto adimpleri, quae necessaria forent, suadebant."

72. Aeneas writes that the bishop was "alti cordis vir" and "audax" (ibid., 2:197).

73. "Rectum est et laude dignum, quod reprehenditis. . . . nisi fecissem hodie facerem. Apostolicae sedi magis quam vestrae turbae obnoxius sum. . . . Nolo negare, quod feci, recteque feci" (ibid., 2:197). Aeneas does not rehabilitate all the figures he criticizes in the *De gestis.* The portraits of Panormitanus and Ludovico Pontano, for example, remain unflattering, and understandably so: though they fought against Eugenius's deposition, they were far from papalists at heart. Panormitanus in particular had been a vocal defender of conciliar theory before the events reported in the *De gestis,* and he continued to be so after the election of Felix V. On Panormitanus, see Watanabe, "Authority and Consent," 218–19, 224–28. Pontano and Panormitanus are described in the *De rebus* as *plus literrarum quam pensi habentes;* and Aeneas also shows them engaged in a petty squabble over who holds the higher rank; see *Der Briefwechsel,* 2:193–94.

74. See especially *Der Briefwechsel,* 2:166–68, 179–81.

75. Ibid., 2:188. Aeneas writes in reply: "Sed mentitat est iniquitas sibi, sedes apostolica adhuc honorifica apud italos est et ille mortuus non vidit, quod optavit."

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to call a new council without the pope's assent, the king replies that "they should not doubt that where the princes were, there also was the church, and that nothing could prohibit them from convening."[76]

But if the *De rebus* engages with threats directed at papal authority, it responds still more extensively to threats Aeneas himself faced as a figure closely tied to the Roman Church. Still stained by his years as a conciliarist, Aeneas needed to rehabilitate his image, especially given his new role of leadership and influence in the church. The *De rebus* accomplishes this rehabilitation in various ways. The epistolary framework of the text, for one, lends considerable authority both to the narrative and to Aeneas as its author. The *De rebus* is cast as a letter to Cardinal John Carvajal, a staunch defender of papal primacy and one of Eugenius's most trusted legates. Carvajal was also a good friend of Aeneas, a relationship that the latter is careful to make clear in the opening lines of his text.[77] Anyone doubtful of Aeneas's allegiance to the ideals of papal monarchy would likely be reassured by this connection to Carvajal and by Aeneas's specific request for the cardinal's comments on his work.

But it is the role Aeneas assigns himself at the Council of Basel that indicates most clearly how the *De rebus* functions as an endorsement for his position of power in the church. In describing the assembly, Aeneas for the most part conveniently writes himself out of the events he reports. There is no mention of the prestigious positions he held at the Basel assembly, the role he played in the election of Felix V, or of his advocacy of a third council while at the imperial court. In his account of the proceedings at Basel, he appears just once and in the innocuous role of orator, praising Pavia as the ideal site for relocating the council. Even so, Aeneas is quick to point out that he executed the role "at God's order" rather than out of greed or ambition.[78] He next emerges as secretary to Felix V, but he mentions this position simply in passing while explaining his subsequent move to the imperial court.[79]

Only after he is safely in the service of the emperor and advocating a rap-

76. The king of France wrote to the princes that "nihil se dubitare, ubi essent principes, quin illic ecclesia esset, conventumque illorum nullum prohibere posse" (ibid., 2:205). For criticisms of the French cardinals, see also 67:192, 196, 218. For Aeneas's disparaging comments on Avignon and its citizens, see 67:196. Aeneas's anti-French sentiment continues in the *Commentaries,* and especially in his account of the conclave that elected him pope; see Totaro, *Pio II nei suoi "Commentarii,"* 1:194–226.

77. *Der Briefwechsel,* 2:164.

78. "Sed non habuimus venalem animam nec res synodales nutu principum sed jussu die agendas putabamus" (ibid., 2:191). He also writes: "Quod si plerisque consensimus rebus non bene factis, errore non malicia peccavimus."

79. "Illuc ego cum Basiliensibus veneram, finem rei visurus, contraxique familiaritatem cum Silvestro Chimensi episcopo, viro docto et constanti, cuius consilio et vocatione regia secretariatum cesareum accepi, ea tamen conditione, ut Amadei consensum haberem, cuius secretarius eram" (ibid., 2:204).

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prochement with the papacy does he move into the foreground and take up a position at center stage. Here, Aeneas emerges not simply as useful to the papalist cause; he is indispensable to it. According to the *De rebus,* it was Aeneas who masterminded the peace between Germany and Rome, employing his consummate skills as a diplomat and rhetorician to steer the princes away from the council and into the arms of Eugenius. The *De rebus* tells a dramatic and suspenseful story, following Aeneas and his fellow ambassadors on their embassies back and forth to Rome; attributing their narrow escapes and well-timed arrivals to divine intervention; and emphasizing how, without Aeneas's involvement, the Germans would likely have recognized Felix as their pope.[80] When Aeneas lays out to the papal legates, Nicholas of Cusa and John Carvajal, the terms of Germany's obedience he has worked so hard to forge, he argues that to accept them is to act in the best interests of the church. "You will either need to accept this [offer]," he warns them, "or you will bring about greater harm."[81]

Aeneas and "the Light of Truth"

"History is the witness of time, the light of truth, the teacher of life, the messenger of antiquity."[82] The words with which Aeneas begins the *De rebus* are considered by many to express the humanist ideal. Ciceronian in origin, this passage exalts history first and foremost as an objective account of times past. But Aeneas's reference in his own work of history should not be taken at face value, nor should it be considered the only humanist perspective on how to write about the past. Indeed, in the second half of the fifteenth century, historiography became less of a light of truthfulness (*lux veritatis*) and more a tool for flattering and disparaging figures and events of the past.[83] Aeneas's *De rebus* and *De gestis* reflect this shift in focus, as does the account he presents of the council in his later *Commentaries.*[84] Each of these texts should be approached not so much as records of what happened at the Council of Basel as they should apologies for those events. But they must still be seen as history and, indeed, as good history in the eyes of many of Aeneas's humanist contemporaries. For this reason, it would be histori-

80. Ibid., 2:206–20.

81. "Aut hoc accipere vos oportebit aut maius malum feretis" (ibid., 2:219).

82. "Historia testis temporum, lux veritatis, magistra vitae, nuntia vetustatis" (ibid., 2:166).

83. Gary Ianziti, "I *Commentarii:* Appunti per la storia di un genere storiografico quattrocentesco," *Archivio storico italiano* 150 (1992): 1029–63, especially 1058.

84. Aeneas's descriptions of the Council of Basel in the *Commentaries* share much in common with his account in the *De rebus.* There are, however, some significant changes. For a comparative analysis of the two texts, see Totaro, *Pio II nei suoi "Commentarii,"* 36–71.

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cally inaccurate to conclude, as one scholar has, that "Aeneas was not so much a historian as . . . a publicist."[85] He was, in fact, both at the same time. To separate the two would be to misunderstand not only Aeneas as a humanist, but also the intellectual culture of fifteenth-century Europe.

If the *De gestis* and the *De rebus* help to define Aeneas as a historian, then they also clarify his contribution to another world of ideas. The arguments, images, and language he uses in these two texts may not be original, but they do reveal a remarkable fluency in the debate over sovereignty in the late medieval church.[86] By weaving them into the actions of his narrative and into the intentions of its characters, Aeneas was able to join in these complex debates and to promote in succession the central claims of both sides. For this reason, we must recognize him as an important interlocutor in the battle over authority and consent in the church as we recognize the *De gestis* and the *De rebus* as valuable contributions to this debate.

85. John Gordon Rowe, "The Tragedy of Aeneas Sylvius Piccolomini (Pope Pius II): An Interpretation," CH 30 (1961): 313.

86. Such fluency is also evident in his letter to Hartung von Kappel and in his *Libellus.* For full references to these works, see note 3 above.

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3

The Conciliar Heritage and the Politics of Oblivion

FRANCIS OAKLEY

Murmur; risus; dissensus; Non! Non! Minime!; Hora tarda est!; Haereticus est . . . taceat . . . nolumus audire amplius! et cetera, et cetera. In other words (loosely rendered): sounds of grumbling; rumblings of discontent and disagreement among the serried ranks of bishops seated in the great hall and trying, within the limits imposed by the dismal acoustics and their own varying grasp of the Latin language, to come to terms with what the speaker was saying; bursts of derisive laughter from the bleachers; exasperated exclamations of "No!" "No!" and "Not at all!"; impatient yelling to the speaker that it was getting late and that he really ought to wrap up his tedious discourse; outraged and indignant shouting even, to the effect that the wretched man was a heretic, that he should shut up, that they simply did not want to hear any more of his outrageous and dangerous nonsense. And so on. I draw these descriptions of the atmospherics at conciliar meetings and recordings of spontaneous, unscripted interruptions of speakers during conciliar debate from Mansi's *Sacrorum conciliorum nova et amplissima collectio,* a huge compilation (running to more than fifty volumes) of documents relat-

This essay was the F. Edward Cranz Lecture for 2004 at Gettysburg Lutheran Seminary. It is grounded in the work I have pursued in the history of conciliarism over the past forty years. See especially Francis Oakley, *The Political Thought of Pierre d'Ailly* (1964); idem, *Natural Law, Conciliarism, and Consent in the Late Middle Ages* (1984); idem, *Politics and Eternity: Studies in the History of Medieval and Early-Modern Political Thought* (1999); idem, *The Conciliarist Tradition: Constitutionalism in the Catholic Church, 1300–1870* (2003).

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ing to the proceedings of the general councils of the church stretching all the way down to the First Vatican Council, which assembled in 1870 in the north transept of St. Peter's Basilica in Rome.[1]

There is nothing in principle surprising about the fact that such phenomena should form part of the historical record. The general councils of the Christian Church have often been highly conflicted and rowdy assemblies. Nothing new about that. What may, conceivably, be surprising, however, is the fact that these particular instances of conciliar rowdiness and dissension are drawn from the volume of Mansi's work that covers the proceedings of the First Vatican Council, an assembly at which more than a third of the participants were dependent on the Vatican to pay their expenses and where no less than 35 percent of those participants were Italian, possessed of a well-deserved reputation for docility when it came to their relations with the Holy See. It was an assembly, too, where the degree of curial management and papal domination was such that some commentators were later moved to cast aspersions on its very freedom. And that measure of surprise may well intensify when one identifies the council fathers whose speeches most characteristically gave rise to such dissension, and what it was in those speeches that seems most readily to have elicited an angry response. For the list of the most pertinent names is by no means an undistinguished one: Joseph Georg Strossmayer, bishop of Djakovo in the Austro-Hungarian Empire, a brilliant Latinist and one of the council's ablest speakers; Georges Darboy, archbishop of Paris, later executed as a hostage by supporters of the Paris Commune; Henri Maret, dean of the Sorbonne's Faculty of Theology and titular bishop of Sura; and the irrepressible August Vérot, bishop of St. Augustine in Florida. The angriest outbursts on the part of those listening to them seem to have erupted at moments when the speakers were doing what one might well have assumed to be wholly innocuous: invoking the authority and the decrees of a previous general council or attempting to read into the record the text of one of those decrees.

Innocuous enough, it might seem, except for the fact that the previous council in question was none other than the Council of Constance—a council still in session, we should note, when Nicholas of Cusa first enrolled as a student at the University of Heidelberg. No fly-by-night affair, it had been summoned by Pope John XXIII (the *first* Pope John XXIII), had met from 1414 to 1418, and had been in size alone one of the most imposing of all medieval gatherings, whether civil

1. These interjections are inserted in parentheses in the texts of speeches delivered at the sixty-fourth and seventy-ninth general congregation of the council and printed in Mansi, 52:429–41, 955–66. Cf. Andrea Riccardi, *Neogallicanismo e cattolicismo borghese: Henri Maret e il concilio Vaticano* (Bologna: Il Mulino, 1976), 270–74; Klaus Schatz, *Vaticanum I, 1869–70,* 3 vols. (Paderborn: Schöningh, 1993–96), 3:323–27, appendix 3.

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or ecclesiastical. While it met it had attracted into its magnetic orbit not only the papal but also the imperial chancery as well as official representatives from a host of other European countries, becoming for a while, as a result, the international crossroads at which much of Europe's diplomatic business was conducted. It was an assembly, it has well been said, that was in effect "as close as the Middle Ages came to the Congress of Vienna or the United Nations."[2] And it was an assembly, too, distinguished by its success in putting an end to what was probably the worst crisis ever to have overtaken the medieval church: the protracted scandal of the Great Schism which, after the disputed papal election of 1378, had seen first two lines of rival papal claimants, Roman and Avignonese, vying destructively with one another for control of the papal office. And then, still worse, after the failed attempt of the Council of Pisa in 1409 to end the schism by deposing the rival claimants and electing Pope Alexander V, it had seen the addition of a third, or Pisan, line of claimants, of whom John XXIII was one.

It might well, then, seem an extraordinary thing that the bishops assembled at Vatican I, a full four and a half centuries after Constance, should react with such hostility to the very mention of that great predecessor council. And it might in fact have been an extraordinary thing had Constance not gone about ending the schism in the way it did—that is, by laying claim to an authority superior, under certain circumstances, to that of the pope, and by then proceeding to bring to trial and to depose two of the rival papal claimants—including John XXIII (whom it viewed as the true pope but a bad man)—and by successfully pressuring the third claimant, Gregory XII, into resigning.

The two Constance decrees, then, that bishops of the anti-infallibilist minority like Darboy, Strossmayer, Maret, and Vérot insisted on invoking as currently valid were simply anathema to the pro-infallibilist majority. They were decrees that they had long since come to regard as, at best, of no more than archaeological interest, at worst, as involving nothing less than a revolutionary attempt to make part of the church's fundamental law what historians have become accustomed to call "conciliarism" or "the conciliar theory."

The first of those decrees, *Frequens,* was a piece of constitutional legislation that, although it was destined to be ignored at Rome from the mid-fifteenth century onward, had stipulated that general councils should henceforth assemble at regular intervals of no more than ten years and should do so automatically if the pope chose not to convoke them. The second, *Haec sancta,* was an even more fundamental piece of constitutional legislation declaring that the Council of

2. C. M. D. Crowder, *Unity, Heresy, and Reform* (New York: St. Martin's, 1977), 24.

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Constance was itself a legitimate general council, that it derived its authority immediately from Christ, and that all Christians, including the pope himself, were bound on pain of punishment to obey it and all future general councils in three areas: matters pertaining to the faith, to the eradication of the schism then prevailing, and to the general reform of the universal church in head and members.[3] The faithful observance of these two decrees, the philosopher Leibniz was later to suggest, might well have prevented the tragic division of Christendom during the Reformation era.[4]

When they reacted with outrage to the invocation of these decrees, the members of the infallibilist majority at Vatican I were reacting to something that, with the rise of ultramontanism and the recovery of high papalism in the mid-nineteenth century, was already well on the way to becoming a repressed memory. And when they went on to endorse Vatican I's historic decrees on papal infallibility and the papal primacy of jurisdiction, what they were doing was setting their faces firmly, finally, self-consciously, and successfully against a powerful tradition of conciliarist constitutionalism which, for more than half a millennium, had persistently competed for the allegiance of Catholics worldwide with the high papalist and absolutist monarchical vision which, having triumphed in 1870, was destined then to become identified with Roman Catholic orthodoxy itself.

Or so I propose to argue. But in so doing I am acutely conscious of the fact that I will be arguing in the teeth of the high papalist constitutive narrative successfully installed, in the wake of Vatican I, not only in Catholic historiography but also in our general histories at large. Only in the past forty to fifty years at most has the revisionist process begun finally to gain traction and to succeed in calling into question that established constitutive narrative. So resilient and tenacious, indeed, has that narrative been, and so deeply rooted in modern theological and canonistic commitments concerning the governance of the Catholic Church, that if I were preaching a homily instead of trying to make a historical case, I would be sorely tempted to choose as my text the Party slogan that George Orwell adduced in his novel *1984,* namely, "Who controls the past controls the future; who controls the present controls the past." In that novel, you may recall,

3. For the texts of *Frequens* and *Haec sancta* see *Decrees of the Ecumenical Councils,* ed. Giuseppe Alberigo and Norman P. Tanner, 2 vols. (Washington, D.C.: Georgetown University Press, 1990), 1:438–42 and 409. For commentary and contextualization with references to the pertinent scholarly literature, see Francis Oakley, *The Conciliarist Tradition: Constitutionalism in the Catholic Church, 1300–1870* (Oxford: Oxford University Press, 2003), especially 60–110.

4. Gottfried Wilhelm Leibniz, "Observations on the Abbé de St. Pierre's 'Project for Perpetual Peace' (1715)," in Leibniz, *Political Writings,* ed. and trans. Patrick Riley, 2nd ed. (Cambridge: Cambridge University Press, 1988), 180.

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the Party is depicted as actively imposing its own lies on the past, making sure retroactively that all records tell the same tale so that, as Orwell puts it, the "lie passed into history and became the truth."[5] That sort of deliberate and ruthless manipulation of the past has not, of course, been totally foreign to the writing even of church history, but, in fairness, one does not have to postulate that sort of thing in order to recognize that the present tends insensibly to reshape the past in its own image and likeness. By so doing, it imparts an aura of necessity and inevitability to current arrangements and institutions. Thus, in the modern era at Rome itself, and since Vatican I in the Roman Catholic Church at large, it has oddly come to seem part of the very nature of things that the ecclesiastical constitution should be that of early modern absolute monarchy, with its governmental apparatus that of "a petty baroque despotism."[6] Similarly, the sovereign pontiff was regarded as the fixed Copernican point around which all the far-flung provinces of the universal church ceaselessly revolve in deferential and (let it be confessed) sometimes sycophantic orbit. But, in fact, it is far from being in the very nature of things. It is, instead, the historically contingent outcome, in some ways fortuitous, of more than half a millennium of embittered debate and debilitating conflict within the church. It is only, one cannot help suspecting, our very familiarity with the high papalist outcome that has contrived to persuade us of the necessity of the process.

In her intriguing little book, *How Institutions Think,* the anthropologist Mary Douglas notes that "the mirror is a poor metaphor of the public memory. . . . When we look closely at the constitution of past time, we find the process has very little to do with the past at all and everything to do with the present. Institutions create shadowed places in which nothing can be seen and no questions asked. They make other areas show finely discriminating detail, which is closely scrutinized and ordered."[7] In Mary Douglas's terms, then, my task will be that of trying to shift the focus of attention from the bright, high-papalist lights of center stage to one of her "shadowed places" in history, in which the workings of a sort of institutional politics of oblivion have ensured that we tend to see little or nothing.

Let me begin by sketching, at least in rough outline, the lineaments of the traditional or constitutive narrative. In terms of the big picture conveyed, the whole conciliar episode is portrayed as emerging, once the ideological dust is allowed

5. George Orwell, *1984* (New York: New American Library, 1961), 32.

6. *Governance, Accountability, and the Future of the Catholic Church,* ed Francis Oakley and Bruce M. Russett (New York: Continuum, 2004).

7. Mary Douglas, *How Institutions Think* (Syracuse, N.Y.: Syracuse University Press, 1986), 69–70.

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to settle, as nothing more than a stutter, hiccup, or interruption in the long history of the Latin Catholic Church, an unfortunate, dangerous, and revolutionary episode it may be, and one, certainly, that was radical in its origins. But one also, it should not be forgotten, that was rapid in its demise. If it got under way with the disputed papal election of 1378, by 1440, and even before Pope Eugenius IV's great struggle with his conciliarist opponents at the Council of Basel was over, it was already unambiguously heading toward its demise. That year, the French historian Paul Ourliac claimed rather grandly (and not much more than a quarter of a century ago) was a great ideological and ecclesiological hinge or turning point, after which theologians, canonists, and humanists alike turned eagerly to what he called the "constructive" task of engineering "the triumph of the papal monarchy."[8] Eugenius IV's victory over the Council of Basel marked the end of the conciliar movement. And if conciliar theory survived a little longer, it was to enjoy not much more than a shadowy half-life, or, put differently, it was destined to become little more than a minor perturbation on the outermost orbit of the ecclesiological consciousness.

That's the big picture. But what happens if one breaks it down into its constituent parts, tightening the focus, first, in order to concentrate on the facts of the matter concerning the disputed papal election of 1378 and concerning the Council of Constance? Then, on matters ideological, on the origins, nature, and destiny of the conciliar theory itself?

So far as the disputed election of 1378 goes, the view embedded in the constitutive narrative is that whatever the claims made for the legitimacy of Clement VII (r. 1378–94) and his successors in the Avignonese line of claimants to the papal throne, they have to be seen as politically conditioned and diplomatically driven. The legitimate pope was Urban VI (r. 1378–89), the one first elected, and the legitimate papal line was the Roman line of his successors down to Gregory XII, who resigned his high office in 1415 during the Council of Constance. As a result, no validity attached to his deposition (along with his Avignonese rival, Benedict XIII) at the Council of Pisa in 1409. Nor did any validity attach to the elections, first of Alexander V and then of John XXIII, who composed the third, or Pisan, line of claimants. Hence the Council of Constance, not having been convoked by a legitimate pope, cannot be regarded as a legitimate council prior to its convocation by Gregory XII just before his resignation on July 4, 1415. That means that the decree

8. Paul Ourliac and Henri Gilles, "La problématique de l'époque: Les sources," in *Histoire de droit et des institutions de l'Eglise en Occident,* ed. Gabriel Le Bras, 18 vols. (Paris: Sirey, 1965–84), 13:1, 51; cf. Ourliac in Etienne Delaruelle, Edmond René Labande, and Paul Ourliac, *L'Eglise au temps du Grand Schisme et de la crise conciliare: 1379–1449,* 2 vols. (Paris: Bloud & Gay, 1962–64), 1:285.

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Haec sancta, which had been enacted on April 6 of that year, was not the decree of a legitimate general council, and the invocation of its authority by the conciliarist opponents of Eugenius IV at the Council of Basel, no less than its subsequent invocation by members of the anti-infallibilist minority at Vatican I, was an unambiguous sign of the doctrinal deviancy and theological bankruptcy that they both shared.

But what, then, of the conciliar theory itself, the ideological underpinnings, after all, of *Haec sancta?* Here, following the damaging case first made by the Dominican theologian John of Torquemada, papal ideologist and propagandist for Eugenius IV at the Council of Basel, the doctrinal genealogy was suspect and the verdict clear. The conciliar theory was nothing other than a revolutionary and heterodox position drawn from the polemical antipapal writings of the two leading imperialist propagandists of the early fourteenth century, Marsilius of Padua and William of Ockham. Such noxious ideas had come to the fore only because the turbulent conditions of the schism had opened a veritable Pandora's box that not even Eugenius IV had been able fully to close. That task fell to Pius II who, in 1460 in the celebrated bull *Execrabilis,* prohibited the practice of appealing from the judgment of the pope to that of a future general council, and to the Fifth Lateran Council which, in 1516, added to that prohibition "a condemnation of the [conciliar] theory itself."[9] Even then, tattered remnants of the conciliarist ecclesiology were to be found in the seventeenth, eighteenth, and early nineteenth centuries, caught up in those provincial (i.e., French, German, Austrian) ideologies that we know as Gallicanism, Richerism, Febronianism, and Josephinism. Those "isms" were fundamentally statist ideologies, used to provide cover and justification for the illegitimate extension of state control over the church. And one of the great achievements of Vatican I was to have succeeded at last in erecting a firm doctrinal bulwark against such reprehensible ideological maneuvers.

All of that said, I would note that not even the firmness of Vatican I succeeded in eliminating all the awkward trailing ends still attaching to the high-papalist narrative, and marginal mopping-up operations were still being conducted well into the twentieth century. Thus, early in the century, even so learned a work as the *Dictionnaire de théologie catholique* simply excised the Councils of Pisa, Constance, and Basel from its list of general councils, which jumped, therefore, from Vienne in 1311–12 to Florence in 1439–45. A particularly bold exercise in the poli-

9. Thus Hubert Jedin, *A History of the Council of Trent,* trans. Ernest Graf, 2 vols. (London: Nelson, 1952–61), 1:133. For a rejection of that claim, see Francis Oakley, "Conciliarism at the Fifth Lateran Council?" CH 41 (1972): 452–63.

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tics of oblivion! In a similar but Anglophone exercise conducted around the same time, the editors of the *Catholic Encyclopedia,* by simply opting to include no article on the subject, made it clear that conciliar theory was to be viewed as a dead issue, an ecclesiological fossil, something lodged deep in the Lower Carboniferous of the dogmatic geology.[10] And cleanup operations were to continue into midcentury. In the nineteenth century it had become customary in Roman circles to label the Avignonese line of papal claimants during the Great Schism simply as "antipopes," but Alexander V and John XXIII, the claimants stemming from the Council of Pisa's failed effort in 1409 to end the schism, had been handled in more gingerly fashion and left in limbo. In 1947, however, in the new, semiofficial listing of popes published by Angelo Mercati, prefect of the Vatican Archives, in the *Annuario pontificio,* the Pisan claimants, too, were now demoted to the status of antipopes. And as such they are now listed in such general works as the *Oxford Dictionary of the Popes* (1986) and the *New Encyclopedia Britannica* (1991).[11]

Even after that move, however, some residual uneasiness seems to have survived, at least in the papal Curia. And it was to manifest itself in 1958 when Angelo Roncalli, newly elected as pope, announced that he was taking the name of John. He himself noted that the name John had been borne by twenty-two papal predecessors, adding the qualification *extra legitimitatis discussiones* (i.e., apart from disputes about legitimacy)—by that qualification making it clear that he himself was passing no judgment on the legitimacy of the Pisan line of the first John XXIII. But papal authorship notwithstanding, this did not accord with curial opinion, which clearly felt it was charged with the duty of keeping the papal voice on frequency—or "on message"—as presidential handlers would say today. From the later official version of the speech published in the *Acta apostolicae sedis,* then, the words *extra legitimitatis discussiones* can be seen to have been quietly excised, and soon the claim was being made that the pope had indeed taken the opportunity to deny the legitimacy of the Pisan line.[12]

So much for the high-papalist constitutive narrative. We must now ask how

10. *Dictionnaire de théologie catholique,* 15 vols. (Paris: Letouzey et Ané, 1903–50), s.v. "Conciles"; *The Catholic Encyclopedia,* 14 vols. (New York: Robert Appleton, 1907–14). In its article on "Gallicanism" (6:355) it drove the point home by stating that "stricken to death, as a free opinion, by the Council of the Vatican, [theological] Gallicanism could survive only as a heresy; the Old Catholics have endeavoured to keep it alive under this form. Judged by the paucity of adherents whom they have recruited daily becoming fewer—in Germany and Switzerland, it seems very evident that the historical evolution of these ideas has reached its completion."

11. On which, see Oakley, *The Conciliarist Tradition,* 253–55.

12. It was the then reigning expert on the Council of Constance who in 1962 drew attention to this curious episode—see Karl August Fink, "Zur Beurteilung des grossen abendländischen Schismas," *Zeitschrift für Kirchengeschichte* 73 (1962): 335–43, at 335–36.

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well it holds up in light of the revised picture, the outlines of which have been emerging with increasing clarity from the body of historical research undertaken since Vatican I. Here I would note that ever since the vast documentary labors of Heinrich Finke in the early twentieth century, which put research into the Council of Constance "on a new footing,"[13] the flow of scholarship on the schism, on Constance itself, and on the conciliar theory, has been simply enormous. (A 1993 listing of works published over the past hundred years on Constance alone ran to more than fifteen hundred items.)[14] If one asks what impact all this new work has had, what sort of picture emerges from it, it should be acknowledged that it has affected in complex ways our understanding of almost the whole conciliar episode, from the circumstances surrounding the outbreak of the schism to the Councils of Constance and Basel to the origins, nature, and destiny of the conciliar theory itself. Time, however, permits me to focus on just three things.

First, the outbreak of the schism itself. Here renewed investigation of the disputed election and the contextual factors surrounding it have converged on the conclusion that, despite other motives traditionally imputed to them, the cardinals unquestionably had some perfectly legitimate grounds for questioning the validity of the original election of Urban VI (including doubts about his very sanity), and their failure to pursue that questioning in the days immediately following the election appears to have been the outcome of coercion and fear in the face of what had emerged as a "pathological personality."[15] Their subsequent repudiation of the election once they got away from Rome and were beyond papal control, and their election of Clement VII, the first of what was to become the Avignonese line of papal claimants, left people at the time, and prominent among them those intimately involved in the whole sorry chain of events, in a state of "invincible ignorance" about which of the two claimants was the true pope.[16] Nor are historians today in any better position. The *historical* evidence, certainly, does not permit one simply to insist on the exclusive legitimacy of Urban's title to the papacy (and, therefore, the legitimacy of his successors in the Roman line). If that claim is now enshrined in the current official listing of popes, it should be recognized that it has been advanced quite explicitly on theological or canonistic rather than historical grounds. For long centuries, indeed, it was not part of the stan-

13. Thus Hans Schneider, *Das Konziliarismus als Problem der neueren Katholischen Theologie* (Berlin/New York: De Gruyter, 1976), 227, who notes also (n94) that Finke supervised no fewer than forty dissertations on the era of the Great Schism and on the great councils of the fifteenth century.

14. See A. Frencken, "Die Erforschung der Konstanzer Konzils (1414–1418) in den letzten 100 Jahren," AHC 25 (1993): 1–509.

15. Oakley, *The Conciliarist Tradition,* 35.

16. Ibid., 35–36.

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dard case put forward even by papal apologists. Instead, it really came to the fore only in the early to mid-nineteenth century with the dramatic rise to prominence of ultramontanism.[17]

Second, that being the case, the claim that the Council of Constance became a legitimately assembled council only after the Roman claimant, Gregory XII, as part of the deal involved in his resignation in July 1415, was permitted by the council to convoke it—that claim, too, falls by the wayside. So, too, does the affiliated papalist claim that, in permitting Gregory XII so to convoke it, the members of the Council of Constance were themselves tacitly conceding the fact that he was the legitimate pope. Their overriding objective, instead, was unity, and in pursuit of that end they were willing to be quite pragmatic. Certainly, they were even less disposed to fuss about a formality that very few of them took seriously than they had been the previous year, when they had treated the ambassadors of both Gregory XII and his Avignonese rival, Benedict XIII, as official papal delegates rather than merely as private Christians. Or, for that matter, than later on, when, in an attempt to persuade the Avignonese claimant, Benedict XIII, to resign so that they could finish the business at hand, they extended to him the same privilege of convocation. And that despite the fact that they themselves had endorsed the sentence of Pisa deposing both the Roman and Avignonese claimants and had recognized John XXIII himself as sole legitimate pope.[18]

Third, conciliar theory itself. Here the claim that it was heterodox in its origins and rapid in its demise has not held up under close scrutiny. As a skilled propagandist doing his best to vindicate the cause of Eugenius IV against his conciliarist opponents at Basel, Torquemada can perhaps be forgiven for attempting to attach to that theory a helpfully suspect and heterodox genealogy. But the historical facts, it turns out, lend no credence to that shrewd move. And here the truly pathbreaking work was that of our colleague Brian Tierney in his splendid *Foundations of the Conciliar Theory,* published fifty years ago and as powerful and persuasive now as it was when he wrote it. For the case he made so successfully was that the conciliar theory, far from being a heterodox reaction *against* canonistic teaching or an alien importation onto ecclesial soil of secular constitutional notions, had instead deep (and impeccably orthodox) roots in the ecclesiological tradition of the pre-Marsiglian era. And if it unquestionably drew a great deal of inspiration from the essentially synodal or conciliar mode of governance that

17. See Thomas M. Izbicki, "Papalist Reaction to the Council of Constance: Juan de Torquemada to the Present," CH 55 (1986): 7–20.

18. Oakley, *The Conciliarist Tradition,* 37–42, 84–87.

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had characterized the ancient church (and for long centuries after the Council of Nicea in 325), it derived much of the structural precision crucial to its practical implementation from elements in the canon law itself, and from the vast ocean of commentary on that law produced in the twelfth, thirteenth, and fourteenth centuries, notably from decretalist corporation theory and earlier decretist teaching on the case of papal heresy. Hence, conciliar theory was not to be brushed to one side as "something accidental and external, thrust upon the Church from the outside," but recognized for what it was, "a logical culmination of ideas that were [deeply] embedded in the law and doctrines of the Church itself."[19]

A similar, if not quite so dramatic or widely known, historiographical shift has been engineered by other scholars pursuing research on the career of conciliar theory during the centuries subsequent to the ending of the Council of Basel in 1449. And here the general message, the politics of oblivion to the contrary, is that it did indeed have such a career, and a very significant one at that. The impact and importance of Pius II's bull *Execrabilis* turns out to have been much exaggerated. And as Bishop Bossuet pointed out in the seventeenth century, it was only with considerable strain that the few oblique phrases embedded in the Fifth Lateran Council's decree, *Pastor aeternus,* could be construed as anything so formal as an explicit condemnation of the conciliar theory itself.[20]

Despite, then, the defeat of the conciliarist party at Basel, the tradition of conciliarist constitutionalism not only survived but was to live on until well into the nineteenth century.[21] In the aftermath of Basel, it remained deeply entrenched in the religious orders and in universities right across northern Europe from Paris to Krakow; was strong enough in the early sixteenth century to eventuate in the assembly of an antipapal council at Pisa; was vital enough to find prominent exponents at the papal court itself; intimidating enough to the beleaguered popes of the Reformation era to dissuade them for decades from convoking a general council to address the Protestant challenge that contemporaries were urgently

19. Brian Tierney, *Foundations of the Conciliar Theory: The Contribution of the Medieval Canonists from Gratian to the Great Schism* (Cambridge: Cambridge University Press, 1955), 13.

20. For *Pastor aeternus,* see Oakley, "Conciliarism at the Fifth Lateran Council?" For the great tide of work devoted to the conciliar movement and to the origins and subsequent career of conciliar theory down to the present, see Remigius Bäumer, "Die Erforschung des Konziliarismus," in *Die Entwicklung des Konziliarismus: Werden und Nachwirken der Konziliaren Idee,* ed. Bäumer (Darmstadt: Wissenschaftliche Buchgesellschaft, 1976), 3–50; Giuseppe Alberigo, *Chiesa conciliare: Identità e significato del conciliarismo* (Brescia: Paideia, 1981), 340–54; Remigus Bäumer, *Nachwirkungen des Konziliaren Gedankens in der Theologie; und Kanonistik des frühen 16. Jahrhunderts* (Münster: Aschendorff, 1971); Hans Schneider, *Das Konziliarismus als Problem der neueren Katholischen Theologie;* Oakley, *The Conciliarist Tradition.*

21. For this compelling story of survival, I venture again to refer to Oakley, *The Conciliarist Tradition* and the literature referred to therein.

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calling for and, when such a council finally assembled at Trent, enjoying enough support among the council fathers as simply to preclude the possibility of promulgating a papally sponsored decree on the nature of the church that would finally resolve the neuralgic issue of the relationship of council to pope. From the early fifteenth to the late nineteenth centuries, the preeminent theology faculty at Paris defended that tradition of conciliarist constitutionalism as integral to the Catholic faith itself. In 1682 it became part of the Gallican orthodoxy at large when it was incorporated into the four Gallican articles issued by a national assembly of the French clergy. In the eighteenth century it enjoyed a great flowering among churchmen in the German and the Austrian territories on both sides of the Alps—and especially so after the publication in 1763 of an enormously influential work written by Johann Nikolaus von Hontheim, auxiliary bishop of Trier, who wrote under the pseudonym of Febronius.[22]

Thirty years ago I myself assumed Febronianism, like Gallicanism before it, to be a statist ideology used to put a good face on the extension of state control over the French, German, and Austrian churches. But, having since pursued the tradition of conciliarist constitutionalism first into the sixteenth and seventeenth centuries and now, more recently, into the eighteenth and nineteenth, I no longer believe that to be anything like the whole story. Theological Gallicanism may have lent itself to the advancement of royal claims, but it did not do so consistently or continually; the same is true of Febronian ideas. At the theological heart of both, and of conciliarist constitutionalism in general, lay something else—nothing other than an earnest attempt to find some space within the regal church structures characteristic of the ancien régime for the pursuit of an ecclesiological middle way between statist and high-papalist domination, one faithful to the more communitarian ethos of the ancient church and the corporatist formulation it received in the Middle Ages.

The stretch of history involved is an exceedingly intricate one, and I must limit myself here to adducing, and briefly at that, three things in support of the claim I have just made.

First, there is the witness of four men to the enduring contrast down the centuries between the positions held at Rome and in Paris concerning the relationship between pope and council: thus the great Scottish and Parisian theologian, John Mair, writing in 1518; Charles de Guise, cardinal of Lorraine, writing in 1563–64; Paolo Sarpi, the Venetian theologian and acerbic historian of Trent,

22. Justinus Febronius, *De statu ecclesiae et legitima potestate romani pontificis. Liber singularis, et reuniendos dissidente in religione christianos compositae* (Frankfurt: Apud Guillelmum Evrardi, 1764).

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writing in 1606 in controversy with the redoubtable papalist, Robert, Cardinal Bellarmine; and, at the end of the same century, the great Bishop Bossuet, writing in defense of the 1682 Declaration of the Gallican clergy, and testifying that the doctrine of *Haec sancta,* unquestionably reaffirmed by the Council of Basel, had been the constant teaching of the theological school of Paris from that time onward, and had been taught also beyond the borders of France by individual doctors and schools of theology right across Europe from Louvain to Krakow and Vienna to Erfurt. Of those witnesses, the cardinal of Lorraine, writing when he was serving as leader of the French contingent to the Council of Trent, was perhaps the most blunt in his affirmation. "I cannot deny," he said,

> that I am a Frenchman, nurtured at the University of Paris where the authority of the council is held to be above that of the pope and where those who hold to the contrary are censured as heretics. [Nor can I deny] that in France the Council of Constance is viewed as general in its entirety, the Council of Basel is likewise recognized, but that of Florence held to be neither legitimate nor general.[23]

Second, there is the surprising fact that in the beleaguered world of English Catholic recusancy, and despite the legal and political price being paid for stubborn adhesion to belief in a divinely instituted papal primacy, conciliarist constitutionalism maintained a persistent following among the secular clergy and educated laity alike, from Sir Thomas More himself[24] in the early sixteenth century all the way down to the era of Catholic emancipation in the nineteenth—and perhaps even beyond that point, if we are to believe the witness of Cardinal Manning. For, as late as the 1860s, that doughty champion of the infallibilist cause was still of the opinion that the native strain of what was called Anglo-Gallicanism posed a greater threat to the health of English Catholicism than did Anglicanism itself.[25]

23. Charles de Guise, letter to his agent at Rome, in *Monumentorum ad historiam concilii Tridentini spectantium collectio,* ed. J. Le Plat, 5 vols. (Louvain: Typographia Academica, 1781), 5:658. For the other statements, see John Mair, *Disputatio de auctoritate concilii supra pontificem maximum,* in Du Pin, 2:1150; Paolo Sarpi, *Apologia per le opposizioni fatte dall'illustrissimo . . . cardinale Bellarmino,* in Sarpi, *Opere,* ed. M. D. Busnelli and Giovanni Gambarin, 9 vols. (Bari: Laterza, 1932–65), 3:117–18; Jacques-Bénigne Bossuet, *Defensio Declarationis Conventus Cleri Gallicani, A.D. 1682: De ecclesiastica potestate,* printed in *Oeuvres complètes de Bossuet,* ed. F. Lachat, 31 vols. (Paris: Vivès, 1863–67): see *App.* I, lib. i, c. 8 (22:489–92); *Praevia diss.,* c. 13 (21:20–23); *App.* III, c. i (22:568–73); also *Defensio, pars* II, lib. 6, c. 22 (21:737–40).

24. In the years prior to the composition of his *Confutation of Tyndale's Answer* (1534), while affirming the authority of general councils, More had not really concerned himself with the quintessentially conciliarist issue of the authority of such councils acting in the absence of (or even in opposition to) their papal head. In the *Confutation,* however, he returned repeatedly to the role of the general council as the ultimate legislative authority in the government of the universal church and, by fairly clear implication, assigned to the council the prerogative of admonishing and, if need be, deposing an incorrigible pope. For a careful appraisal of his position, see Brian Gogan, *The Common Corps of Christendom: Ecclesiological Themes in the Writings of Sir Thomas More* (Leiden: Brill, 1982).

25. See James Pereiro, *Cardinal Manning: An Intellectual Biography* (Oxford: Clarendon, 1998), 262, 265.

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At the end of the eighteenth century, certainly, the learned layman Charles Butler, as well as Bishop Lingard and Father Joseph Berington, had given eloquent expression to that English constitutionalist understanding of Catholic Church governance. Berington, moreover, found a friend and sympathizer in none other than John Carroll, bishop of Baltimore and the first Roman Catholic bishop to be elected in the newly established United States of America.[26]

In the third place, I would also adduce in support of my claim the witness of Henri Maret, last dean of the Sorbonne's Faculty of Theology and, as we have seen, a man destined to be rather harshly viewed by his fellow bishops at Vatican I. In 1869, in a two-volume work, *Du concile général,* written as a preparatory memorandum for that council, Maret had evoked once more, with great faithfulness and precision, the constitutional vision of the great fifteenth-century conciliarists. The Constance decree *Haec sancta* he discussed at length, viewing it as a binding "constitutional law" that was faithful to the witness of scripture, tradition, and conciliar history alike. Having as its object, he said, the regulation of the exercise of ecclesiastical power, it had been recognized by successive popes and taught over the four centuries preceding by his learned predecessors in the Parisian faculty of theology. That being so, he viewed the decree as precluding the sort of "pure, absolute and indivisible monarchy" that Cardinal Bellarmine in particular, and the Roman theological school in general, had attributed to the papal office. Instead, being tempered by the governing role of the bishops, it was, rather, a "monarchy essentially aristocratic and deliberative," what has sometimes been called a mixed government, one framed upon much the same lines, he said, as "constitutional and representative monarchy" in the world of secular governmental regimes. For the bishops possessed by divine right a share in the church's sovereign power. That power they were to wield in general councils regularly assembled, as *Frequens* had stipulated, working to reform the abuses that centuries of overcentralization had spawned, and forming a permanent part of the church's constitutional machinery. And, as *Haec sancta* had specified, in certain extraordinary cases—schism, matters pertaining to the faith, reform in head and mem-

26. See Joseph P. Chinnici, *The English Catholic Enlightenment: John Lingard and the Cisalpine Movement, 1780–1850* (Shepherdstown, W.V.: Patmos 1980); Eamon Duffy, "Ecclesiastical Democracy Detected: I (1779–1787), II (1787–1799)," *Recusant History* 10 (1970): 193–209, 309–31; short account in John Bossy, *The English Catholic Community: 1570–1850* (New York: Oxford University Press, 1976), 330–37. Bishop Carroll made extensive use of Joseph Berington's *The State and Behaviour of English Catholics from the Reformation to the Year 1781* (London: R. Faulder, 1780) and wrote to Berington praising his stance on church government and urging him to probe further in order to ascertain "the boundaries of the spiritual jurisdiction of the Holy See." On which, see Peter Guilday, *The Life and Times of John Carroll Archbishop of Baltimore (1735–1815)* (New York: Encyclopedia, 1922), 129–30; James Hennesey, *American Catholics: A History of the Roman Catholic Community in the United States* (New York/Oxford: Oxford University Press, 1981), 69–100.

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bers—the bishops assembled in council, acting alone or in opposition to the pope (and not simply a pope of doubtful legitimacy) could, by a determinative and not merely declaratory judgment, stand in judgment over him, punish him, and, if need be, proceed to depose him.[27]

That was 1869, and by the time Maret wrote, views such as his had enjoyed a continual history in the church for more than half a millennium. Indeed, they had become so widespread at the start of the nineteenth century that Henry Hallam, an English historian, had written of them in 1818 as "the Whig principles of the Catholic Church" and had described the Constance decree *Haec sancta* as one of "the great pillars of that moderate theory with respect to papal authority which . . . is embraced by almost all laymen and the major part of ecclesiastics on this [i.e., the northern] side of the Alps."[28] And it is important to realize that from the historical point of view there is really nothing startling about such an observation. What *is* startling, instead, is the astonishing fact that by the end of the century what Hallam had seen as a live and commonplace ecclesiological option for the Catholics of his day had become an effectively proscribed and largely forgotten heterodoxy, a matter of interest only to the archaeologists of defunct ideologies.

In the era of Vatican I and for a long time thereafter, many a historian (in this, unlike Henri Maret) viewed the position set forth in the Constance decree *Haec sancta* as very much of a novelty. To John Neville Figgis, writing at the turn of the century, the council's claims were so breathtakingly radical that *Haec sancta* itself (which he viewed as "striving to turn into a tepid constitutionalism the Divine authority of a thousand years") was "probably the most revolutionary official document in the history of the world."[29] Over the years, therefore, historians (in this, like Figgis himself) have usually felt obliged to explain how on earth it could

27. Henri Maret, *Du concile général et de la paix religieuse,* 2 vols. (Paris: Plon, 1869), 1:117–19, 129–30, 342, 417–19, 332–38, 379–468, 530–43. For recent studies of Maret's ecclesiology, see Claude Bressolette, *Le pouvoir dans la société et dans l'Eglise: L'ecclésiologie politique du Monseigneur Maret* (Paris: Cerf, 1984); Riccardi, *Neogallicanismo e cattolicesimo borghese.*

28. Henry Hallam, *View of the State of Europe in the Middle Ages,* rev. ed., 3 vols. (London: Murray, 1901–8), 3:243–45.

29. John Neville Figgis, *Political Thought from Gerson to Grotius: Seven Studies* (New York: Harrer, 1960) 41–70, at 41. These studies were delivered in lecture form in 1900 and first published in 1907. Similarly, in 1869 the great anti-infallibilist Ignaz von Döllinger viewed the decisions taken at Constance as constituting "the most extraordinary event in the whole dogmatic history of the Christian church"; see Döllinger (alias "Janus"), *The Pope and the Council* (London: Rivingtons, 1869), 302. Again, in 1867, addressing the reform program of the Council of Constance, the historian Bernhard Hübler delivered himself of the opinion that the conciliar theory marked a great departure from the past and, from the point of view of late medieval canon law, constituted nothing less than "the grossest heresy"; see *Die Constanzer Reformation und die Concordate von 1418* (Leipzig: Tauschnitz, 1867), 362. The whole of Exkursus II, 360–88, is pertinent.

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be that the seeds of such a constitutionalist ideology could have contrived to germinate in the stonily monarchical soil of the Latin Catholic Church. In the cause of that explanatory effort much scholarly ink has been spilled—but spilled, alas, in vain. And why is that so? Because it turns out that in thus framing the issue historians were, in fact, picking up the conceptual stick at the wrong end. Given what we now know about the depth of its roots in the ecclesiological consciousness of Latin Christendom and the strength with which it endured down into the modern era and right across northern Europe, the real question concerning conciliarism, I would submit, is a very different one. It is nothing other than this: how and why that essentially constitutionalist ecclesiology came to perish in the latter half of the nineteenth century, yielding the field to the victorious champions of an imperial papacy and, in so doing, leaving so very little trace on our historical consciousness. That's the real question; that's the puzzling question. It would take more than another essay to answer it, but it should surely be a priority question for the next generation of conciliar scholars. Certainly, they would be wise not to confine their attention to the conciliar epoch alone.

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PART II Sources

Introduction

THOMAS M. IZBICKI

The writers of the conciliar age presupposed that the church was a divinely founded institution rooted in scripture and tradition. The polemics of the age employed arguments from reason (frequently buttressed with references to texts) and arguments from authority (often expressed in syllogisms). Jean Gerson, chancellor of the University of Paris and the most prolific theologian present at the Council of Constance, was very concerned with the proper foundations for discourse on church and reform. He was unwilling to rest content with either Aristotle or the legal texts in circulation. Moreover, he criticized those who confused human traditions with evangelical law. The Great Schism (1378) was blamed, with other problems of the day, on just such confusion of the human and the divine. David Zachariah Flanagin digs deep into Gerson's understanding of the Bible as the ultimate source of revealed authority; but he shows how the chancellor permitted logical deductions to be made from scripture, especially in the governance of the church. By revisiting scripture, Gerson was able to present creative solutions to the schism and leave behind an example of a Bible-based ecclesiology.

Gerson and the canonist Francis Zabarella were among those who drafted *Haec sancta* (1415), the most important decree of the Council of Constance. The decree was issued in two versions. That of the fourth session (March 30, 1415) differed significantly from that of the fifth session (April 6, 1415). Michiel Decaluwe offers an insightful analysis of these two texts, relating them not just to each other but to the ideas of Gerson and Zabarella. Both claimed a right for the council to remain in

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session after the flight of John XXIII, the Pisan claimant to the papacy, from Constance. The first version claimed direct power from the Holy Spirit for solution of the schism, defense of the faith, and reform of the church binding even a pope. It aroused opposition. A second version left more room for John XXIII's convocation of the council as a constituting act, while defending the synod's continued existence and authority following his flight. Flexibility in wording permitted the leaders of Constance to continue the work of reunion despite their own differing opinions, an example of creating consensus through the toleration of diversity that the Council of Basel would not follow.

The Holy Spirit was seen, and not just in *Haec sancta,* as guiding councils. Natacha-Ingrid Tinteroff looks at this presence from a different angle. The council was viewed as a liturgical assembly with its own rituals. The liturgy, with its invocation of the Spirit, creates a sacred space within which to address matters of doctrine and discipline. In this way the council is an image of the mystical body of Christ.

Jean Gerson invoked the Spirit in his pronouncements at Constance, and the Council of Basel claimed such inspiration for its efforts to impose reform upon the church. John of Segovia rested much of his defense of Basel upon the presence of Christ and the identity of the council with the Savior's body. Conciliar fathers like Pierre d'Ailly rooted their ideas of reform in the divine presence at the councils of the church, a sentiment not far removed from those of the recent John XXIII about the role of the Second Vatican Council. This same sentiment lies behind calls for Vatican III and visions of churches reunited by the work of the Spirit.

All of these articles address the sources of conciliar thought and reform sentiment in scripture, law, and liturgy. Jovino Miroy looks at a somewhat different, but creative, use of sources. Nicholas of Cusa, while a participant in the Council of Basel, advanced a vision of ecclesiastical concord in his *Catholic Concordance* (*De concordantia catholica*). Miroy argues for continuity of this work with the later, more metaphysical ideas expressed in *On Learned Ignorance* (*De docta ignorantia*), written after Cusanus had broken with Basel. This continuity lies at a deep level, including a reinterpretation of the idea of concordance. Due attention is also given to the changes in Cusanus's thought, especially the shift from the positive statements of canon law to the negative theology of "learned ignorance" which, Cusanus maintained, offered a new way to achieve concord and harmony in a divided church. He had departed from his canonistic sources, but the church remained the focus of his thoughts.

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4

God's Divine Law

The Scriptural Founts of Conciliar Theory in Jean Gerson

DAVID ZACHARIAH FLANAGIN

[If] the pope were not subject to the divine or evangelical law, which was proclaimed by Christ to all without any exception, in Matthew 18[:15–18], when he spoke directly to Peter (as the church teaches and the facts of the text indicate well enough), saying, "If your brother sins against you . . . tell it to the church . . . ," then Paul would have acted against divine and human law when he resisted Peter to his face, i.e., publicly and before the congregation of the church, as is found in Galatians 2. For this resistance was less a minor provocation between Paul and Peter than it was an appeal to the church. . . . For this reason, if indeed Peter had refused to desist, he would have had to be condemned by the church. And it is the case that Peter was pope and was confirmed in faith and grace after Pentecost, according to the doctors. They [i.e., the doctors] say that Peter was not errant in faith nor guilty of heresy, but he was only acting rather falsely about the observance of legal matters. Therefore, Paul said that he was not walking rightly according to the truth of the gospel, and that he needed to be rebuked. For this reason, it is clearly deduced that a supreme pontiff, who succeeds Peter in the apostolate, can be rebuked publicly by a doctor of theology, who succeeds Paul in the office of preaching, even when he [i.e., the pope] is not guilty of heresy or an error in faith.[1]

Jean Gerson, *Whether It Is Licit to Appeal from a Pope in Matters of Faith?* (1418)

One of the issues central to understanding the conciliarist heritage is the question of origins and sources: where, exactly, did the conciliar theory come from? In what could perhaps be called the "tradi-

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1. "papa non subjiceretur legi divinae vel evangelicae quae generaliter absque omni exceptione

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tional view," the answer was clear. Conciliarism was a heresy that, like all heresies, sprang from a depraved will and a corruption of the central tenets of the Christian faith—in this case, that central tenet was absolute papal monarchy, which would best be expressed in the First Vatican Council's declaration of papal infallibility.[2] While such an answer made a great deal of sense from the vantage point of a later orthodoxy, it failed to do justice to the immense complexity and variety of ecclesiological thought that was present in the Middle Ages, particularly during the crisis of the Great Western Schism. Attempting to rectify the situation, twentieth-century historians returned to the sources of late medieval conciliarism to ask the question again—and what they discovered was remarkable. Instead of a malicious corruption from the outside, intent on destroying the time-honored monolith of papal supremacy, conciliarism was a natural outgrowth of traditions inherent *within* the medieval church, finding new expression in the time of pontifical crisis. In the most classical exposition of this thesis, Brian Tierney posited that these traditions could be traced back to the discussions of the canon lawyers, particularly with regard to two important questions: papal heresy and the rights of corporations.[3] While this widely accepted interpretation of conciliarism has had the admirable result of redeeming the conciliar thinkers of the later Middle Ages from the hinterlands of heterodoxy, it has also created a somewhat skewed picture of conciliarism as a whole and the sources from which it drew its lifeblood.

The deficiency of this picture stems from the fact that it tends to see all conciliarism through the lens of the jurists. Yet, even a cursory examination of con-

promulgata est a Christo, Matth. xviii, dum loqueretur ad personam Petri, sicut tradit Ecclesia et circumstantia textus satis indicat: si peccaverit in te frater tuus, etc.; sequitur: dic Ecclesiae. . . . Paulus egisset contra ius divinum et humanum dum restitit Petro in faciem, hoc est publice et coram Ecclesiae congregatione, sicut habetur ad Gal. ii. Haec enim resistentia non fuit minor provocatio Pauli contra Petrum quam fuisset appellatio ad Ecclesiam. . . . Unde et si Petrus desistere noluisset, fuisset ab Ecclesia condemnandus. Constat autem quod Petrus erat Summus Pontifex et secundum doctores confirmatus in fide et gratia post Pentecosten. Propterea dicunt quod Petrus non errabat in fide nec haereticabat, sed tantummodo nimis dissimulanter se habebat circa observationem legalium. Dicebat ideo Paulus quod non recte ambulabat ad veritatem evangelii et quod reprehensibilis erat. Ex quibus palam elicitur quod Summus Pontifex qui succedit Petro in apostolatu reprehendi potest publice per doctorem theologum qui in officio praedicationis succedit Paulo, etiam ubi non haereticaret vel erraret in fide" (OC, 6:284). All quotations from Gerson's texts are my translations unless otherwise noted.

2. Francis Oakley offers an overview of this "traditional view" of conciliarism in *The Conciliarist Tradition: Constitutionalism in the Catholic Church, 1300–1870* (Oxford: Oxford University Press, 2003). Especially pertinent are 99–104, where Oakley discusses the ascription of conciliar theory to William of Ockham and Marsilius of Padua, a label that stems from the fifteenth-century papalists John of Torquemada and Eugenius IV and was almost unquestioningly assumed to be true until the mid-twentieth century. In such a historical framework, conciliarism could only be viewed as "a stutter, hiccup, or interruption in the long history of the Latin Catholic Church, an unfortunate and revolutionary episode, radical in its origins and rapid in its demise" (16).

3. Brian Tierney, *The Foundations of the Conciliar Theory: The Contribution of the Medieval Canonists from Gratian to the Great Schism* (Cambridge: Cambridge University Press, 1955).

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ciliar thinkers makes it immediately clear that they were not all of one stock. In fact, medieval conciliarism came in a myriad of forms. Political thinkers like Marsilius of Padua could draw upon the writings of Aristotle and the examples of the Italian city-states to argue for a radical version of democracy within the church,[4] while canonists like Francis Zabarella could appropriate the juristic traditions of the *Decretum* and the *Decretales* to construct an oligarchic government of cardinals.[5] Although it is true that many political theorists, canon lawyers, and theologians did share a common desire for reform, joined to a growing belief that a general council of the church, not the Roman pontiff, was the supreme ecclesiastical authority for undertaking such a project, there was no unified entity that could be called "conciliarism."[6] Each medieval thinker was forced to come to terms with the ecclesiastical crisis on his own, to draw upon the sources that he found authoritative, and finally to construct a solution to the crisis on the basis of these authorities. For the great canonists of the fifteenth century, it is only natural that Tierney found them to have returned to the juristic traditions of the church on which they were weaned, just as the political philosophers might turn to Aristotle. However, what about the theologians? For conciliarism was far more a movement of theologians than of jurists.[7] What were the principles that guided the theological doctors of the fifteenth century in their search for an answer to the ecclesiastical crisis? What elements from the past and present did these principles lead them to appropriate? And how did this particular selection of elements in turn affect the shape of their conciliar theory? For Jean Gerson (1363–1429), the leading theologian of his day and the most influential upon later conciliarists,[8] the fundamental answer is to be found in sacred scripture.[9]

4. Marsilius of Padua (1275/80–1342), rector at the University of Paris, achieved fame as a radical theorist of limited ecclesiastical government in the antipapal camp of Emperor Louis of Bavaria. His most famous work is *The Defender of Peace: The Defensor Pacis,* trans. Alan Gewirth (New York: Harper & Row, 1998).

5. Francis Zabarella (1360–1417) was one of the most renowned canonists of his age. After a long career in teaching and Paduan diplomacy, he was appointed cardinal by the Pisan pope, John XXIII, and took a leading role among the college at the Council of Constance. For an analysis of his conciliar theory, see Tierney, *Foundations,* 220–37.

6. See Francis Oakley, *Council Over Pope? Towards a Provisional Ecclesiology* (New York: Herder & Herder, 1969), 61–74.

7. Antony Black, *Council and Commune: The Conciliar Movement and the Fifteenth-Century Heritage* (London: Burns & Oates, 1979), 5.

8. Ibid., 19.

9. Although there have been many fine studies of Gerson's conciliar theory in recent years, they consistently ascribe the root of Gerson's conciliarism to some factor other than scripture. Some of the most important works include John B. Morrall, *Gerson and the Great Schism* (Manchester: Manchester University Press, 1960), who treats Gerson's conciliarism as a haphazard mélange of various ideas brought together by the pure accident of the contemporary crisis (ix); Louis B. Pascoe, *Jean Gerson: Principles of Church Reform,* Studies in Medieval and Reformation Thought 7 (Leiden: Brill, 1973), who focuses on the unifying factor of hierarchy in Gerson's

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While acknowledging that the Parisian doctor roots his view of pastoral responsibility and obligation in many sources, including philosophy, canonistic traditions, and contemporary theological trends, it is clear that Gerson sees himself as relying essentially on holy writ to formulate and prove his church-reform program, and this basic pattern is consistent throughout his career.[10] That this would be the case is only natural. Theologians of the later Middle Ages were trained as doctors of sacred scripture, required to hear lessons on the Bible for four years and then to teach such lessons for two more years as part of their academic training. They envisioned themselves as custodians and interpreters of the divine law found in those scriptures, a task foundational to the ongoing life of the church.[11] And Gerson was no exception. First as a rising theological star in Paris and, from 1395, as chancellor of the leading intellectual body in the known world,[12] he saw

ecclesiology; and John J. Ryan, *The Apostolic Conciliarism of Jean Gerson,* The American Academy of Religion: The Religions 4 (Atlanta: Scholars, 1998), who declares that Gerson's conciliarism was motivated and inspired by the vague, late medieval tradition of "apostolic protest" (11). Typical in its treatment of scripture is the most complete of these studies, by G. H. M. Posthumus Meyjes, *Jean Gerson—Apostle of Unity: His Church Politics and Ecclesiology,* trans. J. C. Grayson (Leiden: Brill, 1999). In a discussion of Gerson's pivotal understanding of the church as a mystical body, Posthumus Meyjes, *Jean Gerson,* notes that Gerson "always referred to the same texts of Paul" (Rom 12:4–5, 1 Cor 12:12–28, and Eph 4:4–16) (298). Yet instead of a close analysis of the use of these texts, Posthumus Meyjes immediately turns to the philosophical task of explaining the nature of the mystical body and concludes that this "collective-corporative" component of his ecclesiology "derived largely from Aristotelian principles, particularly the idea that the *totum* preceded the *pars* and prevailed over it. At the same time this component was supported and articulated by considerations drawn from the law of nature and of corporations." Taken together, these two avenues might turn the trick; see *Jean Gerson,* 309. The scriptural element of Gerson's conciliarism is preemptively dismissed in favor of the more common discussions of Aristotle and canon law. While those elements are indeed important, for Gerson, they are subservient to *sacra scriptura.* An exception to this standard pattern can be found in a recent essay published by Karlfried Froehlich, "New Testament Models of Conflict Resolution: Observations on the Biblical Argument of Paris Conciliarists during the Great Schism," in *Conciliation and Confession: The Struggle for Unity in the Age of Reform, 1415–1648,* ed. Howard P. Louthan and Randall C. Zachman (Notre Dame, Ind.: University of Notre Dame Press, 2004), 13–36. Although Froehlich's discussion focuses primarily on Gerson's mentor, Pierre d'Ailly, he does draw important conclusions about early Paris conciliarists in general, including Gerson. His survey leads him to emphatically state: "The biblical argument of the early Paris conciliarists . . . is anything but mere embellishment of their political and personal ambitions. It is at the very heart of their calling" (31).

10. An *absolute* distinction between sacra scriptura/theology and canon law is untenable in the later Middle Ages, even for Jean Gerson, as Francis Oakley points out in "Gerson and d'Ailly: An Admonition," *Speculum* 44 (1965): 81. However, Gerson views his *fundamental* task as defending the purity of the divine law found in scripture against the excesses of canon law promulgated by contemporary jurists. As such, Gerson himself attempts to create such a dichotomy and opposition between scriptural theology and canon law.

11. Cf. OC, 5:224, "men are properly called theologians who profess and possess knowledge of those matters which are properly said to concern theology, i.e., divine law or evangelical [law], which is the same thing, and who know how to elucidate, defend, and strengthen that [law]."

12. The major events of Gerson's academic life can be summarized in brief order. At age fourteen, he moved to Paris to begin his studies in the Faculty of Arts. He received his bachelor of arts in 1381 and immediately matriculated in the Faculty of Theology. After six years of attending lectures (four on the Bible and two on Peter Lombard's *Sentences*), he became a *baccalarius biblicus* in 1387. This was followed by two years in which he lectured on the Bible to younger students. Then, upon receiving the *baccalarius sententiarius* in 1389, he lectured on the *Sentences* for one year, as well. Gerson was granted the licentiate in theology in 1392 and became a full doctor of theology in 1394 or 1395. Almost immediately, his friend and patron, Pierre d'Ailly, resigned the position of

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his task as calling the church back to its divine foundation in scripture, the ignorance of which was to blame for the present crisis.

We will begin with the text that marks the clarion call of Gerson's conciliar reform program, a bold New Year's Day sermon to the Avignonese pope, Benedict XIII, in which the chancellor disclaims the reliance of the canonists on human traditions and proclaims the only possible solution to the schism—an immediate return to biblical revelation:

[H]uman laws, as established, are not sufficient for finding an end to the present schism, unless the superior law, divine, living, and architectonic, is consulted. Perhaps this has not been discussed enough before now, but it touches upon what the Lord said in Isaiah, "They have feared me because of the precept and teaching of men. Therefore, behold, I will bring amazement to this people, by a great and stupendous miracle. For wisdom will perish from this people's wise men, and the understanding of its prudent men will be hidden" [Is 29:13–14]. From this passage Jesus drew his reproach of the Pharisees, that "they voided the law of God by their traditions" [Mt 15:6]. Oh, would that these men would hear those words with their own ears, these men who desert the evangelical law, the divine law with its adherents, and rely wholly on human inventions! They do not raise their eyes to that superior law, either unable because of lack of training or unwilling because of iniquity or negligent because of insipid laziness. However, when human laws are insufficient, as seems obvious in the present schism, it is necessary for us to consult the root and interpretation of divine law and form our consciences according to it. What danger, what evil, what confusion the contempt of sacred scripture has brought! Scripture is certainly sufficient for the governing of the church; else, Christ would have been an imperfect legislator.[13]

chancellor at the University of Paris for an episcopal appointment and arranged for Gerson to succeed him in the post in 1395. Gerson maintained this position as head of the University of Paris until his death in 1429, despite extended periods of absence, such as his flight to Bruges (1398–1400), his time at Constance (1415–18), and his exile after the council (1418–29). Until recently, the most complete biography of Gerson's life was Johann Baptist Schwab's *Johannes Gerson, Professor der Theologie und Kanzler der Universität Paris: Eine Monographie* (Würzburg: Stahel, 1858); but it is now replaced by Brian Patrick McGuire, *Jean Gerson and the Last Medieval Reformation* (University Park: Pennsylvania State University Press, 2005). Biographical summaries can also be found in James L. Connolly, *Jean Gerson: Reformer and Mystic* (Louvain: Librairie universitaire, Uystpruyst, 1928), 1–203; Posthumus Meyjes, *Jean Gerson,* 11–203; Morrall, *Gerson,* 1–16; Pascoe, *Jean Gerson,* 4–15; Jean Gerson, *Early Works,* trans. Brian Patrick McGuire (New York: Paulist, 1998), 4–21; Palémon Glorieux, "Essai biographique," OC, 1:105–39.

13. "ad schisma praesens cuius sedationem invenire non sufficerent leges humanae iam conditae nisi superior lex divina viva et architectonica consulatur; quod quia forte non satis actum est usque in praesens, obtigit quod ait Dominus in Isaia: timuerunt me mandato hominum et doctrinis; ideo ecce ego addam ut admirationem faciam populo huic, miraculo grandi et stupendo. Peribit enim sapientia a sapientibus eius et intellectus prudentium eius abscondetur. Ex quo loco sumpsit Iesus illud improperium contra pharisaeos quod irritum faciebant mandatum Dei propter suas traditiones. Audirent, o utinam, ista auribus suis hi qui legem evangelicam, legem divinam cum professoribus suis deserentes, humanis inventionibus incumbunt toti, adeo ut ad superiorem legem illam oculos attollere vel non valeant ex ruditate vel nolint ex iniquitate, vel negligant ex inerti segnitie, cum tamen ubi leges humanae non sufficiunt, prout in schismate praesenti compertum videtur, ut ad legis divinae radicem et interpretationem consultatio referatur et secundum eam conscientia formetur necesse est. Quid autem periculi, quid mali, quid confusionis attulerit contemptus Sacrae Scripturae utique sufficientis pro regimine Ecclesiae, alioquin Christus fuisset legislator imperfectus" (OC, 5:73–74).

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What does Gerson mean by this confusion of human traditions and evangelical law? And how is sacred scripture sufficient for the rule of the church? As we begin to ask these questions of the Parisian doctor, the scriptural principle that underlies his ecclesiological vision quickly becomes apparent. Jean Gerson was a scripturally guided reformer in many areas of church life, from the classroom to the confessional, and his conciliar efforts would be no different. In order to understand how this biblically driven conciliarism took shape, we shall turn first to the question of divine law, in order to understand the foundation of Christian life and thought and the integral role that the scriptures play in Gerson's theological system. Then, following the discussion of this scriptural principle, we shall take up two final questions that deal directly with his conciliar thought: What authoritative sources did such a scriptural principle lead Gerson to appropriate in his search for an answer to the crisis of the schism? and How did these authorities in turn shape a conciliar vision unique to the chancellor? By the end of this inquiry, it should be clear that for theologians, there was another route to conciliarism than that of canon law—and a trail that was significantly blazed by the most influential forebear to conciliarists of a later age.

The Principle of Scriptural Supremacy

Jean Gerson made no secret of the fact that one of the primary diseases plaguing the church of his day was a widespread confusion over law. Bishops and bureaucrats (primarily jurists) were relying on "human inventions" to guide the church—finite solutions to an infinite mystery—and thus they were unable to extract themselves from the mire of problems that they faced, the most egregious of which was the enduring schism. At the same time, they were either ignorant of or were intentionally ignoring the superior and perfect law of God, found in the scriptures, by which the church had been successfully governed since the apostolic age.

In order to untie the legislative knots with which the church found itself bound, Gerson penned several treatises on the subject of law, the most important of which are the second lesson of *On the Spiritual Life of the Soul* (January–July 1402) and three sermons to recent licentiates in the Faculty of Canon Law: *Conversi estis* (April 1406), *Pax vobis . . . missurus* (April 1408), and *Dominus his opus habet* (April 1410).[14] In these writings, Gerson carefully distinguishes four kinds of law that make up the created order. First, there exists the divine law, which stems directly from the reason and will of God and is revealed to the human person for

14. Ibid., 3:128–41, 5:168–79, 5:435–47, 5:218–29.

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the purpose of instructing him or her in what is necessary for salvation. Second, there is the natural law, which is inscribed deep within every rational human being for the sake of helping him or her achieve the natural end of felicity in human society. Both of these first two categories of law derive ultimately from the divinely created order of the universe and are therefore unchanging and eternal. However, the third category of law, what Gerson calls human or positive law, is different. Positive law is the sum of those rules crafted by the human mind to organize and structure a particular political community at a particular place and time. And since human society exists in an infinite variety of circumstances, positive law is necessarily mutable and finite—thus, qualitatively distinct from divine and natural law. Fourth and finally, there exists the hybrid category of canon law, which contains selections from the first three kinds of law, gathered together over the centuries for the government of the church.[15]

In Gerson's view, the great disorder that plagued the church of his day was the result of the confusion of these different kinds of law. Canon law, which primarily consists of positive laws, has been elevated out of its proper place by individuals who are either unscrupulous or just plain ignorant. Instead of being content with its two primary functions of punishing lawbreakers (those who violate either positive or divine law) and regulating temporal matters (such as the material goods of the church and peripheral regulations like the frequency of confession), canon law has declared itself to be the immutable rule for the church, taking the place of the divine law given by Christ.[16] Thus, finite juristic principles like "The pope can be judged by no one" and "A council cannot be celebrated without the authority of the pope" are now seen as absolute,[17] leading to the endurance of the schism and to the great detriment of the church. For Gerson, the great task of the theologian is to rectify this situation by "separating the precious from the vile" (Jer 15:19),[18] that is, discerning the human from the divine and restoring the immutable law to its proper place as the sole foundation of the church. Yet, if the primary root of the ecclesiastical crisis is the confusion of positive and divine law, one must ask the question, what exactly does Gerson mean by the term "divine law"? It is here that the important role of scripture in theology (and especially in ecclesiology) becomes evident.

15. The preceding paragraph summarizes OC, 3:130–35 and 5:172–77. An extensive discussion of these four kinds of law can be found in Posthumus Meyjes, *Jean Gerson,* 232–40.

16. OC, 5:224–28.

17. In OC, 6:136, Gerson refers to these as examples of extreme papalism. They were being cited from the classic canon law book, Gratian's *Decretum,* Dist. 17, c. 5; C. 9 q. 3 cc. 10, 13, 14, 17; C. 17 q. 4 c. 30 and Dist. 17, cc. 1–6, respectively.

18. Cf. OC, 5:444.

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In the treatises *On the Spiritual Life of the Soul* and the *Declaration of Truths Which Must Be Believed by Necessity of Salvation* (1416), Gerson makes a special effort to clarify the matter.[19] The sources of "purely divine law" (i.e., direct revelation without any fallible, mediating element) or "catholic truth" can be divided into four grades: (1) scripture; (2) immediate conclusions drawn from scripture; (3) ecclesiastical tradition that stems from the apostles; and (4) private revelations.[20] One immediately notices that scripture occupies the two primary grades of divine law. (While the third and fourth grades demonstrate that the Bible was not the only possible source of direct revelation, they play significantly little role in Gerson's conciliar ecclesiology, which is our focus here.)[21] The first source of divine law is fairly obvious. Gerson is referring to "the canon of all of sacred scripture and the singular things which are literally asserted in it," particularly in the gospels.[22] Here we have the common, late medieval emphasis on the role of the literal sense of sacred scripture as the foundation for theological argument.[23] The second grade is slightly more complicated. On the surface, deductions from scripture might be construed as a watering-down of the Bible, that is, "making it say what you want."

19. These two texts arise from very different situations but still show a remarkable continuity in Gerson's view of law. *On the Spiritual Life of the Soul* is a series of six lessons concerning the new life that results from Christian baptism, sent by request to Gerson's mentor, Pierre d'Ailly, during France's failed subtraction from the Avignon pope (1398–1403). Lesson 2 investigates the nature of that law whose transgression deprives one of the spiritual life given by baptism (OC, 3:128–41). The *Declaration of Truths Which Must Be Believed by Necessity of Salvation,* OC, 6:181–89, was written at Constance in response to the council's failure to condemn Jean Petit and his scriptural defense of tyrannicide. For Petit, see note 26 below.

20. Gerson claims that he bases his fourfold distinction of laws on a similar distinction of truths found in other doctors (OC, 3:137). His reference is likely to William of Ockham's *Dialogus de potestate papae et imperatoris,* Monumenta politica rariora, ex optimis editionibus phototypice expressa, ser. 1, no. 1 (1959), 410–16, 1.2.1–5, where Ockham begins his discussion of papal heresy by distinguishing five categories of catholic truths: (1) statements in scripture or that follow necessarily from scripture; (2) truths handed down by continuous succession from the apostles; (3) truths found in the chronicles and histories of the church; (4) conclusions based on the first three stages; and (5) private revelations. However, he could also be referring to Henry of Oyta, who copied these five grades of catholic truth into his *Quaestio de sacra scriptura et de veritatibus Catholicis* (Frankfurt: Hoffmann, 1614; repr., Turin: Bottega d'Erasmo, 1959); see *Henrici Totting de Oyta quaestio de sacra scriptura et de veritatibus Catholicis,* ed. Albert Lang, Opuscula et textus 12 (Münster: Aschendorff, 1953), 62–65.

21. This is to be expected since the oral, apostolic tradition was exactly what was so hopelessly confused with the human inventions of canon law. Gerson was also tremendously wary of the subjectivity involved in discerning private revelations, so much so that he wrote three important treatises on the subject: *On the Distinction of True and False Revelation* (November–December 1401–2), OC, 3:36–56; *On the Testing of Spirits* (1415), OC, 9:177–85; and *On the Examination of Doctrines* (May 1423), OC, 9:458–75. For an insightful analysis of Gerson's ideas on the discernment of spirits, see Wendy Love Anderson, "Free Spirits, Presumptuous Women, and False Prophets: The Discernment of Spirits in the Late Middle Ages" (Ph.D. diss., University of Chicago, 2002), 234–99.

22. "canon totius Scriptura[e] sacrae et singulorum quae in ea litteraliter asserta sunt" (OC, 6:181).

23. See especially Hermann Schüssler, *Der Primat der heiligen Schrift als theologisches und kanonistisches Problem im Spätmittelalter,* Veröffentlichungen des Instituts für europäische Geschichte Mainz 86 (Wiesbaden: Steiner, 1977); and, more recently, Christopher Ocker, *Biblical Poetics before Humanism and Reformation* (Cambridge: Cambridge University Press, 2002).

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These worries led the late Heiko Oberman to label such "implicit" assertions of the Bible as nominalist violations of the *sola scriptura* principle.[24] However, when Gerson speaks of consequences or deductions from scripture, he generally gives examples of truths that are much more obvious. One of his favorites is the statement that "Christ had nerves and veins." The scriptures tell us that Christ was a man, and reason tells us that all men have nerves and veins. Thus, it is an evident consequence that Christ had them as well, although the words of scripture never state this explicitly.[25] Here we get to Gerson's central distinction between the two grades of scripture and deduction. The content in both is the same. However, the outward appearance (*forma*) of the words has been changed, through the clear light of reason and/or faith. This category is very important for Gerson, as his particular concern late in life was to combat the theologian Jean Petit's biblical defense of tyrannicide, which he found to be logically opposed to the deduction of "Thou shalt not kill."[26] Gerson based his zealous defense of the Decalogue on the principle that deductions from divine law are equally valid and binding, by necessity of salvation. Thus, Gerson seems to employ the category of deduction not as a license to manipulate the scriptures but as a careful preservation of their content.[27]

Briefly, although Gerson concedes that any source of direct revelation could be an instance of divine law or truth, scripture clearly occupies pride of place—so much so that he frequently abandons the term "divine law" in favor of "evangelical law." Indeed, scripture, in and of itself, is sufficient for individual salvation and the government of the church:

Scripture has been handed down to us as a sufficient and infallible rule for the governing of the whole ecclesiastical body and its members until the end of the age. Therefore, it is

24. Heiko A. Oberman, *The Harvest of Medieval Theology: Gabriel Biel and Late Medieval Nominalism* (Grand Rapids, Mich.: Eerdmans, 1967), 371–90.

25. OC, 6:183.

26. Jean Petit had attempted to justify the Duke of Burgundy's murder of the Duke of Orleans as "licit tyrannicide" by citing several Old Testament episodes and particularly by reinterpreting the Decalogue's injunction against murder according to the exegetical principle that "the letter kills, but the spirit gives life" (2 Cor 3:6). Gerson vigorously opposed Petit and Burgundy on the grounds that their manipulative hermeneutic endangered the validity of sacred scripture. Historical treatments of Jean Petit are quite rare. The most complete is Alfred Coville, *Jean Petit: La question du tyrannicide au commencement du XVe siècle* (Paris: Picard, 1932). See also Karlfried Froehlich, "'Always to Keep the Literal Sense in Holy Scripture Means to Kill One's Soul': The State of Biblical Hermeneutics at the Beginning of the Fifteenth Century," in *Literary Uses of Typology, from the Late Middle Ages to the Present,* ed. Earl Miner (Princeton: Princeton University Press, 1977), 20–48; and David Zachariah Flanagin, "Gathering around the Word: The Biblical Roots of Conciliarism in Jean Gerson" (Ph.D. diss., University of Chicago, 2004), 42–138. The pertinent texts can be found in volume 5 of Du Pin.

27. That is, "Thou shalt not kill" can be deduced to include "Thou shalt not commit tyrannicide"—hardly an exegetical jump.

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such an art [*ars*], such a rule or exemplar, that any other doctrine which does not conform to it [both in content and in the form of words] is to be cast out as heretical or suspect of heresy or considered to be impertinent to religion.[28]

The Bible, for Gerson, is the touchstone for the theological edifice. It is the clear and complete law book for the Christian life, surpassing all other avenues of truth. While more was certainly revealed to the apostles directly by Christ than they chose to include in the gospels, what they have included is the final authority for those who do not have such direct access to Christ:

[A]lthough in the beginning of the church militant, which was composed of the apostles and their immediate successors, who were recently and certainly taught by Christ about many things which have not been written down, the authority of such a church was more to be believed than any gospel, before it had been received and authorized by the church; nevertheless, after the authorization of the four gospels by the church, the gospel is more to be believed than any other human authority.[29]

In summary, Jean Gerson viewed the problems that plagued the church of his day, particularly the endurance of the papal schism, as primarily the result of a legal confusion. Instead of regulating the church according to the eternal and perfect divine law of Christ, canon lawyers were relying on their finite and fallible human traditions. In order to rectify the situation, it was necessary for the theologians of the day to discern the human from the divine, relying primarily on the sufficient rule for church governance found in the scriptures, particularly the gospels. For Gerson, the determinative theological principle was that of scriptural authority.

The Scriptural Sources of Conciliarism

It is clear that, in theory, divine law is central to Gerson's theology and that the scriptures are in turn central to divine law. However, the real test is how this theory plays out in practice. Does this divine law drawn from scripture really maintain

28. "Scriptura nobis tradita est tamquam regula sufficiens et infallibilis pro regimine totius ecclesiastici corporis et membrorum usque in fidem [*sic*] saeculi. Est igitur talis ars, talis regula, vel exemplar, cui se non conformans alia doctrina vel abjicienda est ut haeretica, vel de haeresi suspecta, aut sicut impertinens ad religionem prorsus habenda" (OC, 9:465).

29. "Unde quamvis ab initio militantis Ecclesiae, quae componebatur ex Apostolis et immediatis successoribus, noviter et certitudinaliter a Christo doctis de multis quae non sunt scripta, plus credendum fuerit auctoritati talis Ecclesiae quam cuicumque evangelio, priusquam ab ea esset receptum, vel autorisatum; nihilominus post autorisationem quatuor Evangeliorum per dictam Ecclesiam, plus est credendum Evangelio, quam alteri cuicumque auctoritati humanae" (ibid., 9:463).

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a place of priority in the development of Gerson's conciliarism? A close analysis of his ecclesiological texts quickly makes it clear that it does. When Gerson takes time to list the individual laws that serve as the starting point for his ecclesiological and conciliar conclusions, they are overwhelmingly drawn from the scriptures. In these writings, such evangelical law plays a dual role. First, it functions as a collection of "universal rules" or "supernatural *principia,*"[30] in the Aristotelian sense, upon which valid, practical deductions can be made in the theological process. These immutable first principles served as the foundation blocks of Gerson's conciliar theory, particularly the crucial right of Christians to challenge an errant pope. Second, the scriptures also in effect interpret themselves, as the Bible offers a set of exempla of great saints ruling God's people according to the eternal law. Since these saints, particularly the apostles, clearly had direct access to the divine law from the mouth of Christ himself, their understandings of the principia of evangelical law play a determinative role in how later generations of Christians should interpret it.

We are able to see the Bible functioning as an ecclesiological touchstone from the earliest days of Gerson's career as a theologian. When he was granted the licentiate of theology in the winter of 1392, he gave a rousing disputation, *On Spiritual Jurisdiction,* arguing that authority must be relinquished if it is harmful to one's subjects, especially in matters of faith and religion. In fact, three main biblical principles require such action of all pastors, from priest to pope. The first principle is that of pastoral rule, which obligates that a shepherd lay down his life for his sheep (Jn 10:11, 15).[31] Nicholas of Lyra and the other doctors say that this means he is required to be willing to die when there is imminent danger to faith or religion in his subjects.[32] Thus, one should conclude a fortiori that this renunciation is also obligatory for anything less than one's life. If being a good

30. Ibid., 6:193.

31. "Praesidentia pastoralis obligat hominem ad ponendam animam pro ovibus suis, secundum doctrinam Christi, Jo. x" (ibid., 3:1). Prior to this, Gerson had already cited the concept of the Good Shepherd in reference to prelates in a sermon from the fall of 1392. He asks, Should the common people, for whose good the office of the pope exists, be destroyed simply to protect the dignity of the single man who inhabits the office now? Anyone should be willing to give up his status, or even his life, before he lets such horrible things happen. Based on this, Gerson points out the difference between the *bonus pastor* (Jn 10:11) and the *mercenarius* (Jn 10:12), who is none other than Aristotle's tyrant, ruling not for the good of the whole, but for his own good. Further, he is worse because the office and damage are spiritual (OC, 5:305).

32. Nicholas of Lyra (1270–1349) was "the greatest biblical exegete of the fourteenth century and perhaps the greatest in the West since Jerome" (*Nicholas of Lyra: The Senses of Scripture,* ed. Philip D. W. Krey and Lesley Smith [Leiden: Brill, 2000], 1). A Franciscan luminary from Normandy who was renowned for his excellent knowledge of Hebrew and Jewish scholarship, Lyra's most famous work was his *Literal Postill on the Whole Bible* (1322–31), a running commentary on the Old and New Testaments that soon took second place only to the great *Glossa ordinaria* in the theological study of the Bible.

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shepherd obligates one to remain with the flock and give up one's life when flight would cause danger to the sheep, then certainly one is also bound to leave if staying brings danger.[33] "One who does the opposite should be considered not a pastor or lord but a mercenary and a tyrant—the most wicked and sacrilegious tyrant."[34] The second principle, fraternal love, obligates us to abstain from anything that scandalizes our brothers and sisters, even things that are otherwise licit, as Paul says of meat sacrificed to idols (Rom 14:21, 1 Cor 8:13).[35] Therefore, it becomes licit to renounce spiritual jurisdiction if its retention causes scandal. This is especially true in matters that concern faith and Christian religion. That the obligation to renounce spiritual jurisdiction extends all the way to the papal office is made clear by the fairly recent example of Celestine V's abdication.[36] Since this command "obliges" giving up one's bread to those in need and in danger of corporal death, how much more in cases of spiritual death?[37] In addition, scripture tells us that a scandalizing part of the body should be cut off for the good of the whole (Mt 18:8–9). "Therefore, the same is true in the mystical body [of Christ, i.e., the church], whose health is determined by the health of its parts."[38] The third principle, the duty of service, obliges us to fulfill our office.[39] Both divine and human law state that all offices exist solely for the service they render. Scripture teaches this in the parable of the faithful manager in charge of the servants (Lk 12:42–48).[40] It is also taught by Christ when he tells Peter to "feed my sheep" (Jn 21:17).

Previously, Gerson had interpreted this Johannine passage as saying that faith and love made Peter deserve to be pastor of the church.[41] Christ granted him the role of shepherd in John 21 only after Peter said that he loved him three times. The lesson for us is that "prelates of the holy church should not be cho-

33. OC, 3:1. For more on Gerson's concept of the bonus pastor, see D. Catherine Brown, *Pastor and Laity in the Theology of Jean Gerson* (Cambridge: Cambridge University Press, 1987), ch. 3.

34. "Aliquin, crede sibi, non pastor, non dominus sed mercenarius est et tyrannus plerumque iudicandus; tyrannus vero ita tyrannus et nefandissimus sacrilegusque tyrranus" (OC, 5:305).

35. Ibid., 3:2.

36. Ibid. Celestine V (d. 1296) offered the most famous example of a papal resignation. A former hermit and very pious individual, he fled the administrative machine of the Roman Curia after only six months in office. He issued a constitution (December 10, 1294) on the papal right to resignation, which he put to use a mere three days later. His successor, Boniface VIII, naturally approved of this decision.

37. Ibid.

38. "Ergo a simili erit in corpore mystico, cuius sanitas constat ex sanitate partium" (ibid.). Cf. "De modo se habendi tempore schismatis"(c. April 1398), which denigrates the two obediences excommunicating each other in Bruges. Since none of the common people can be sure who the true pope is, this violates fraternal charity (ibid., 6:29–34).

39. Ibid., 3:2.

40. Ibid.

41. Ibid., 7:2:723.

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sen because of the status of their birth, but should [be chosen because] they are the most fervent in the love of God."[42] This evangelical principle of the duty of service is confirmed by the rule of law and the doctors: that one should not act against things established for charity, faith, and the community. That is, since the purpose of every ecclesiastical office is to guard the faith and serve the common good according to the intention of charity at the root of all law (1 Tm 1:5), when the holder of the office begins to impede the purpose of the office, then he must cede.[43] Based on these obligations, Gerson concludes that this need for resignation applies to popes and bishops when they are endangering their flock; in such a case (as is the schism), they should resign immediately. Further, when the pope retains his dignity to the scandal of his subjects, especially if he causes mortal sin, he sins gravely. It would be better if a millstone were tied around his neck and he were plunged into the sea (Mt 18:6).[44]

This text demonstrates *in nuce* what one finds in all of Gerson's ecclesiological works as they develop toward conciliar theory. The Parisian doctor held a view of pastoral responsibility and Christian obligation that stemmed from many sources, including Aristotelian ideas of the common good and the whole preceding the part,[45] along with much of the current theological tradition. However, Gerson sees himself as relying primarily on the scriptures to construct and reinforce his church-reform program. This basic formula continued to dominate as the chancellor moved toward explicit adoption of conciliarism in 1404 and subsequently advocated it with fervor between the announcement of the Council of Pisa in 1408 and the ending of the schism in 1417.

One of the clearest examples of the Bible functioning as source of principia for conciliarism appears in Gerson's 1409 treatise, *On the Unity of the Church,*[46] which he wrote sometime after he met with the Oxford delegation on its way to the Council of Pisa. Zealously arguing for the superiority of divine law in all ecclesiastical matters, Gerson begins his case by listing eight allegations drawn from positive law that were being used to impede the process for unity, including several that upheld a strong version of papal supremacy.[47] His response is a set of

42. "les prelaz de saincte Eglise doivent estre esleuz non mie par faveur de lignage et doyvent estre les plus fervens en l'amour de Dieu" (ibid.).

43. Ibid., 3:2–3.

44. Ibid., 3:3.

45. For more on these Aristotelian concepts, see Posthumus Meyjes, *Jean Gerson,* 279–309.

46. OC, 6:136–45.

47. These are (1) that a council cannot be celebrated without the authority of the pope; (2) that someone who has been despoiled (i.e., the offended, true pope) must have his rights restored to him before anything else; (3) that those who subtracted from papal obedience must be rejected as enemies; (4) that just fear can be

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general considerations that oppose divine law to these human traditions. First, he outlines the now-familiar distinction between the four kinds of law: divine (or evangelical), natural, canonical, and civil (i.e., positive). Although all four play some role in the governing of the church, it is necessary to remain ever vigilant in regulating the last two by the first two. In the present crisis, unity is impossible without such an interpretation of the imperfect by the perfect law, which is called equity or *epikeia,* the ancient principle of interpreting a law according to its end,[48] which the scripture says is love (1 Tm 1:5) and/or Christ (Rom 10:4). This process has become absolutely necessary because positive laws, since they are finite, often have no express remedy for the infinite variety of circumstances, including the present case of the schism. Instead, we must rely on "the immutable and eternal *principia* of divine and natural law."[49] Gerson then offers us a selection of these principles that he finds determinative, and the dominant place of scripture is immediately evident. The first five principles and thirteen (of twenty-eight) overall are direct quotes from the Bible. These include that one should obey God rather than men (Acts 5:29); that power is for edification, not destruction (2 Cor 10:8, 13:10); that the end of the law is love (cf. Rom 13:10, 1 Tm 1:5); that the good shepherd lays down his life for his sheep (Jn 10:11); that the spiritual man judges all things (1 Cor 2:15); that we should cut off a scandalizing part of the body (cf. Mt 18:8); and that we must all listen to the church (Mt 18:17).

The last of these principia listed in *On the Unity of the Church* was by far the most important. Matthew 18:15–18 states:

If your brother sins against you, go and point out the fault when the two of you are alone. If he listens to you, you have regained a brother. But if you are not listened to, take one or two others along with you, so that every word may be confirmed by the evidence of two or three witnesses. If the brother refuses to listen to them, tell it to the church; and if the brother refuses to listen to the church, let him be to you as a gentile and a tax collector.

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alleged; (5) that no one can say to the pope, "Why do you do this?" especially if he is not expressly erring against the articles of faith, since he can be judged by no one and he is subject to no one and he cannot be rendered schismatic; (6) that it is dangerous for a pastor to desert his flock by ceding; again (7) that whoever did his duty for ecclesiastical union is not at fault; finally (8) that there must be an inquiry concerning the justice of the true papal party, without knowledge of which the errant cannot repent (ibid., 6:136).

48. Epikeia, or equity, is a legal concept, derived from Aristotle, which argues that since no positive law can foresee every possible circumstance, it is necessary in some cases for positive laws to be interpreted "according to the intention of the lawgiver," rather than according to the strict letter of the law, in order that justice may be fulfilled. Gerson believes that this principle of epikeia is also found in the Bible, frequently citing Ps 118:172, "All your laws are equity"; cf. OC, 6:230. For the most complete analysis of Gerson's use of epikeia, see Francesco d'Agostino, *La tradizione dell'epieikeia nel medioevo Latino: Un contributo alla storia dell'idea di equità* (Milan: Gruffrè, 1976), 237–63. See also Posthumus Meyjes, *Jean Gerson,* 242–46.

49. "principia iuris divini et naturalis . . . immobiles et aeternae" (OC, 6:143).

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Truly I tell you, whatever you bind on earth will be bound in heaven, and whatever you loose on earth will be loosed in heaven.

For Gerson, this passage served as a clear gospel statement of the conciliar position. He cites it frequently, but perhaps nowhere is its explication more forceful than in his 1417 *Libellus of Articles against Peter de Luna,*[50] otherwise known as Pope Benedict XIII, who was the last papal holdout to prolong the schism. Gerson's guiding principle for the treatise is that "when some general rule to be observed is given in the gospel by Christ, that [rule] obligates every man of sound mind," and no opposing human tradition has validity.[51] Matthew 18:15–18 is one such general law, and Gerson quotes it in full as "the foundation of the supernatural power of the church" for both fraternal correction and the power of binding and loosing.[52] Other divine laws from scripture and natural laws corroborate this, such as casting out a scandalizing member (cf. Mt 18:8–9), but Matthew 18:15–18 is sufficient in itself.[53] Since the pope shares the same mother (i.e., the church) and father (i.e., God—he says the *Our* Father) with the rest of the faithful, he is also a brother. Experience makes clear that the pope can sin, and thus he must be subject to the law of fraternal correction.[54] Further, the grammar of the passage makes it quite clear that it is the church, and not Peter, who has the duty of correcting. Christ is speaking to a group that includes Peter, and he says to "tell it to the church." If he had meant Peter alone, he would have told Peter to "tell it to himself."[55] The church is not Peter, but the *congregatio fidelium* (i.e., the sum total of believers). This interpretation is especially valid when the sinning brother is the pope himself.[56] Thus, Matthew 18:17 "clearly teaches that the church possesses judicial authority," which is also clear from Luke 10:16 (he who hears you hears me) and Matthew 18:18 (the power of binding and loosing).[57] Gerson concludes that "everyone [including the pope], who licitly can and should be punished judicially, should also be licitly called to judgment" when necessary, and no human law has force against this divine law.[58] Further, this verse does not confine itself to heresy

50. Ibid., 6:265–77.

51. "Item dum est data in evangelio per Christum aliqua regula generalis observanda, illa obligat omnem hominem habentem usum rationis" (ibid., 6:267).

52. "ubi fundatur potestas supernaturalis Ecclesiae" (ibid.).

53. Ibid.

54. Ibid., 6:267–68.

55. "dixisset sibi ipsi" (ibid., 6:268).

56. Ibid.

57. "docet manifeste quod Ecclesia habet auctoritatem iudiciariam" (ibid.).

58. "omnis qui potest aut debet licite puniri iudicialiter, potest etiam licite evocari ad iudicium" (ibid.). That is, since the church has the power of judicial punishment, rooted in Matthew 18:17, then it also has the power to summon individuals to that judgment. This conclusion was especially important since getting the three popes to appear for judgment was the great problem of the Council of Constance.

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alone, but applies to any sin.[59] All writings or assertions which claim that a pope can be accused only of heresy and that he cannot be judged openly "contradict the gospel text."[60] If these human constitutions are understood to include the authority of a council as well, they are heretical and damned by the recent definition of *Haec sancta*.[61] Thus, Benedict XIII is declared to have taught heresy by teaching this doctrine, which "directly and expressly prejudices and contradicts the evangelical law of fraternal correction, and of judicial correction by the authority of the church if fraternal is insufficient, which is contained in Mt. 18[:17]: 'if your brother sins against you.'"[62] And since Benedict clings to this heresy pertinaciously, he is himself a heretic.[63]

Other examples of the role of the Bible as a source of divine principia are easy to locate in the chancellor's conciliar writings.[64] However, we now turn to the second function of the scriptures in Gerson's thought—that of an endless source of exempla for living the Christian life. In his regular preaching, the chancellor treated scripture much like a concordance of moral lessons for edifying the minds of faithful listeners.[65] Such common uses of exempla also occur frequently in his ecclesiological writings. For example, after berating the problem of overcentralization in Rome, Gerson was able to quote Jethro's advice to Moses in Exodus 18 not to "wear himself out in foolish labor," but to appoint judges to deal with lesser problems among the people.[66] However, in the construction of his conciliar theory, this second use of the scriptures served its most important function when the exempla were actions of the saints, taken according to their proper understanding of the principia of gospel law.

59. Gratian's *Decretum* (Dist. 40, c. 6) allowed for a judgment of the popes only in the case of heresy, and many canonists maintained this strict interpretation. However, a selection of famous jurists, including Huguccio, extended judgeable papal crimes to other areas that posed a significant threat to the church, such as fornication, robbery, and sacrilege; cf. Tierney, *Foundations,* 59. Gerson would clearly agree with this latter tradition. He states: "Any public or notorious sin of the pope can be denounced to the church if, after he has been warned fraternally, the pope does not want to listen to the one warning him nor witnesses that are brought in. That is, unless it can be shown on the basis of properly divine law that Christ excluded some sin there [i.e., in Mt 18], which certainly could not occur" (*quodlibet peccatum papae publicum seu notorium potest denuntiari Ecclesiae, si fraternaliter monitus papa nolit audire monentem neque testes inductos, nisi daretur ex lege proprie divina quod aliquod peccatum Christus istic excluserit, quod utique fieri non poterit*) (OC, 6:269).

60. "contradicens textui evangelico" (OC, 6:269). Gerson defines heresy as a perverse teaching contrary to the Catholic faith, and "the Gospel is orthodox faith objectively" (6:273–74). Thus, any pertinacious and clear contradiction of the gospel is heresy.

61. Ibid., 6:270.

62. "directe et expresse praeiudicat et contrariatur legi evangelicae de correctione fraterna et de correctione iudiciali per auctoritatem Ecclesiae si fraterna non suffecerit, quae habetur Matth. xviii: si peccaverit in te frater tuus, etc." (ibid., 6:273).

63. Ibid.

64. See Flanagin, "Gathering around the Word," 185–257.

65. For more on Gerson's preaching style, see Brown, *Pastor and Laity,* ch. 2.

66. OC, 6:224.

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These exempla serve such an important function because one of Gerson's hermeneutical foundations is that the primitive church "received these scriptures and its understanding of them directly from Christ through revelation by the Holy Spirit."[67] Since the apostolic understanding of the proper meaning of the gospel principia was revealed immediately by Christ, it overrules the later accretions by interpreters, who lacked such direct illumination.[68] And for Gerson, it is clear that the early church understood the commands of divine law in a conciliar fashion. One scriptural example in particular offered Gerson a potent weapon against ultra-papalism. In Galatians 2 we read of Paul opposing Peter to his face because he was not walking according to the truth of the gospel. Even after the crisis of the schism had ended, Gerson would be forced to employ this model to challenge the newly elected Pope Martin V.[69]

As the days of Constance drew to a close, Martin moved to head off the growing conciliar exuberance among the fathers at the council and to reassert papal centrality by issuing the constitution *Ad perpetuam,* which asserted that "it is not lawful for anyone to appeal from the supreme judge, i.e., the Apostolic See or Roman pontiff, the vicar of Jesus Christ on earth, or to decline its judgment in causes of faith. These greater [causes] must be deferred to him [i.e., the pope] and the Apostolic See."[70] In *Whether It Is Licit to Appeal from a Pope in Matters of Faith?*[71] Gerson recognizes that this constitution seems to have a clear foundation in canon law, but he questions whether it can be called "catholic." To reach the answer, Gerson poses a biting question to Martin: If one is not allowed to appeal over the head of the pope, then was Paul acting against God's law in challenging Peter at Antioch?[72] In light of Paul's illuminated understanding of the gospel, which was directly revealed to him by Christ (Gal 1:11–12), it is impossible to conclude that he would have misunderstood the divine law so egregiously. The fact is that, even though Peter had been legitimately confirmed as pope since Pentecost, and even though his error did not even constitute heresy, Paul did oppose him to his face. Furthermore, this was not simply a "minor provocation," but was rather an "ap-

67. "universalis Ecclesiae, praesertim primitivae, quae recepit eam [i.e., scripturam] et eius intellectum immediate a Christo revelante Spiritu Sancto" (ibid., 10:58).

68. Cf. ibid., 10:56–57.

69. For an analysis of the medieval understanding of this pericope, see Karlfried Froehlich, "Fallibility Instead of Infallibility? A Brief History of the Interpretation of Galatians 2:11–14," in *Teaching Authority and Infallibility in the Church,* Lutherans and Catholics in Dialogue VI, ed. Paul C. Empie, T. Austin Murphy, and Joseph A. Burgess (Minneapolis: Augsburg, 1980), 259–69.

70. "Nulli fas est a supremo iudice, vicelicet Apostolica Sede seu Romano Pontifice, Jesu Christi vicario in terris appellare, aut illius iudicium in causis fidei quae tamquam maiores ad ipsum et Sedem Apostolicam deferendae sunt, declinare" (quoted in OC, 6:283).

71. Ibid., 6:283–90.

72. Ibid., 6:284.

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peal to the church," because of which Peter would have had to be condemned had he refused to desist.[73] Gerson states that this scriptural episode makes it clear that "a supreme pontiff, who succeeds Peter in the apostolate, can be rebuked publicly by a doctor of theology, who succeeds Paul in the office of preaching, even when he [i.e., the pope] is not guilty of heresy or an error in faith."[74] Furthermore, it is clear that Peter was also challenged by the Jerusalem church for his visit to Cornelius (Acts 10–11), and that he did not call or lead any of the four councils in Acts, just as Nicea was called not by the pope but by Constantine. Thus, the exempla of the apostles themselves dictate that not ultra-papalism but the supreme authority of the church as a whole (i.e., Gerson's conciliarist position) must agree with divine law.

This final battle with Pope Martin offers us one final insight into the relationship of the scriptures to Gerson's ecclesiology. If his conciliarism had been simply an ad hoc response to crisis, as some have claimed,[75] or if the scriptural principia had been mere proof-texts, it is logical that it would have dissipated when the schism itself had ended. After all, the problem of multiple popes had been solved, and the church could finally look forward to a period of peace and quiet. If unity at any cost had been Gerson's only goal, then picking a fight with the newly constituted and universally acknowledged pontiff would have served no discernible purpose. However, that was not the case. Gerson risked a great deal in challenging Martin over the validity of conciliar principles. But as a custodian of the divine law, it was necessary for Gerson to uphold the truth of the scriptures, whose conciliar principia and exempla must continue to endure, even after the problem of the schism had ended.

The Shaping of a Biblical Conciliarism

It remains for us to examine how this scriptural principle, which led Gerson to build a conciliar ecclesiology based upon such biblical passages as Matthew 18:15–18 and Galatians 2:11–14, in turn gave a unique shape to his version of conciliarism. First, it has been frequently remarked that Gerson's conciliarism was of the "moderate" type,[76] by no means interested in destroying the papacy or even in turning the council into the regular instrument of church government, as was attempted at Basel several decades later. Instead, Gerson was a strong believer in the

73. Ibid. For the Latin, see note 1.
74. Ibid.
75. Cf. Morrall, *Gerson,* ix, 122–23.
76. Oakley, *Council over Pope?* 70; cf. Posthumus Meyjes, *Jean Gerson,* 342–48, 385–86.

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divine foundation of both the papacy and the entire hierarchy of the church.[77] In his most elaborate treatise on conciliarism, *On Ecclesiastical Power and the Origin of Rights and Laws* (1417),[78] the chancellor posits that all the necessary powers of the hierarchy in the contemporary church were instituted by Christ and have always existed, although beginning "in the form of a seed" (*seminaliter*).[79] Thus, the papal power will always remain and cannot be separated from the church.[80] No radical, democratizing strain can be found here. Although popes can be deposed as the good of the church demands, and the use of the papal power can be regulated for similar reasons, such occurrences are the exception to the rule.[81] In normal circumstances, the Roman pontiff should exercise day-to-day ecclesiastical authority, since such a monarchy accords to Christ's intention from the beginning.[82]

It is possible that this quality of moderation can be explained by the fact that Gerson's conciliarism was based primarily on a series of biblical passages instead of abstract political principles like Marsilius's belief in the human legislator or modern, romantic conceptions of "representation" or "the people." If the latter had been at the root of his conciliarism, he would likely have been inclined to view the existence of the hierarchy or the papal monarchy as a threat to some other ideal form of ecclesiastical government. Instead, Gerson's conciliarism was built very simply on the biblically based belief that the sort of absolute papalism espoused by many, particularly the canon lawyers of his day, was incompatible with the divine structure of the church evident in the scriptures. First of all, it was clear that such a system was not working—the most glaring results of the claims of absolute papalism were nearly forty years of schism and an even longer history of corruption in the church. And second, it was apparent that those closest to Christ, particularly Peter and Paul, neither taught nor enacted such a system in the apostolic age. Gerson's conciliarism was not constructed from the ground up out of proto-democratic ideals but was rather intent on repairing a divinely ordained structure according to the example of how the apostles *did* and *did not* act.[83] He was correcting a perfectly designed institution that had recently been

77. Pascoe states that "in all his [i.e., Gerson's] conceptions of the church the notion of hierarchical order emerges as a predominant theme" (*Jean Gerson,* 22).

78. OC, 6:210–50.

79. Ibid., 6:222.

80. Ibid., 6:235.

81. Ibid.

82. Ibid., 6:132–34.

83. See Louis B. Pascoe, "Jean Gerson: The 'Ecclesia Primitiva' and Reform," *Traditio: Studies in Ancient and Medieval History, Thought, and Religion* 30 (1974): 379–409; and Ryan, *The Apostolic Conciliarism of Jean Gerson,* both of whom point out the strong link between Gerson's reform program and the apostolic age. Pascoe argues that the chancellor continually looked back to the first three hundred or so years of the *ecclesia primitiva* as the valid norm for a wide variety of contemporary ecclesiastical issues, including his conciliar solution to the schism. Ryan links Gerson's conciliar reform to the late medieval forms of apostolic life and protest. However, neither

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corrupted and broken by reappropriating the original blueprint as he found it in the scriptures. Indeed, none of Gerson's biblical principles spoke of radical forms of government; therefore, he had no tendency to move in that direction, either.

A second characteristic of Gerson's ecclesiology that also is reflected in his reliance on biblical authorities is the important role played by the theologian in this system.[84] Medieval theology frequently made reference to the keys of the kingdom given by Christ to Peter in Matthew 16. It was generally acknowledged that there were two of these keys, the first representing the power to bind and loose from sins and the second representing knowledge of the divine mysteries. While many traditions ascribed both keys to the successors of St. Peter in Rome, that was not the case for the chancellor. Gerson, like many others in the theological faculty at the University of Paris, took great pride in his position as custodian of divine law, which he equated with theological and scriptural truth. Instead of seeing theologians as mere servants of the apostolic succession of bishops, he saw them as keepers of the second key.[85] As such, they held a "quasi-episcopal status,"[86] deriving their doctrinal authority from Paul's office as preacher, just as bishops derived their jurisdictional authority from Peter's office of the apostolate. Based on this view, Gerson would frequently argue that popes and bishops were incapable of making binding doctrinal decisions without the assistance of the hierarchical office of theologians.[87] Deriving his inspiration from the example of Paul in Galatians 2, as that episode was understood at the University of Paris, Gerson felt it his duty, and the duty of all theologians, to stand up for the truth against any and all fallible elements in the church, including the pope.[88] In many ways, the boldness with which Gerson advocated the conciliar theory can be traced to this apostolic exemplum, reflecting yet another scriptural root of his conciliar ecclesiology.

Conclusion

In summary, we have seen how the route to conciliarism for a theologian of the fifteenth century could be quite different from that of a canonist. All concerned leaders of the late medieval church were faced with the same crises of

clearly highlights or examines the dominant role of scripture in this "apostolic" context, and thus both have missed one of the key elements of Gerson's theology of the church.

84. See Douglass Taber, "The Theologian and the Schism: A Study of the Political Thought of Jean Gerson (1363–1429)" (Ph.D. diss., Stanford University, 1985).

85. Cf. OC, 5:224.

86. Taber, "The Theologian and the Schism," 103.

87. Cf. OC, 10:35, 6:284.

88. Ibid., 6:284.

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schism and corruption. And, indeed, there were various ideas, both secular and religious, available in Europe at the time that could support a theory of limited monarchy as a solution.[89] However, one must remember that within the walls of the Catholic Church, the concept of papal monarchy still dominated, in which Roman pontiffs were the source of all ecclesiastical power and were above all law and human judgment. With famous but rare exceptions,[90] this theory controlled the theological landscape. For an orthodox theologian like Gerson, only an authority as great as that of sacred scripture could serve as the bedrock upon which he would stand to challenge the ultra-papal system. And, though much research remains to be done, it is likely that he was not alone.[91] For, as Antony Black states in his study of the next generation of conciliarists at the Council of Basel, Jean Gerson was "the greatest of all" their conciliar predecessors, exercising "an enormous intellectual and moral influence . . . on the next generation."[92] If the basis of his conciliar ecclesiology was sacred scripture, then it stands to reason that the same would be true for his disciples, as well.

89. For secular expressions of limited monarchy, see Antony Black, *Political Thought in Europe, 1250–1450,* Cambridge Medieval Textbooks (Cambridge: Cambridge University Press, 1992), 136–61.

90. E.g., Marsilius of Padua and William of Ockham.

91. A promising start to this research has been made by Karlfried Froehlich. See note 9 above.

92. Black, *Council and Commune,* 19.

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5

Three Ways to Read the Constance Decree *Haec sancta* (1415)

Francis Zabarella, Jean Gerson, and the Traditional Papal View of General Councils

MICHIEL DECALUWE

The conciliar epoch produced a multitude of important and innovative texts that, ever since the end of the Middle Ages, have been the subject of intense and often intellectually compelling discussion. One of these often-discussed texts is a decree of the fifth session of the Council of Constance (April 6, 1415), namely, the decree *Haec sancta.* The first two articles of this decree have especially been studied over and over again. Although many scholars have tried to suggest an adequate interpretation, none has gained general acceptance.[1] Yet there is still more to be said about the decree. The contention of this essay is that the key to understanding *Haec sancta* correctly is to be found in the conciliar theories of two important members of the Council of Constance: Francis Zabarella and Jean Gerson. The influence of both scholars on the decree has often been proposed.[2] Nevertheless, how decisive their influence was on the exact formulation of *Haec sancta* has never been shown.

1. The list of studies is very long. For an overview of research since Second Vatican, see Ansgar Frenken, *Die Erforschung des Konstanzer Konzils (1414–1418) in den letzten 100 Jahren,* AHC 25 (1993): especially 365–89. See also the article of Thomas Prügl, "*Antiquis iuribus et dictis sanctorum conformare:* Zur antikonziliaristischen Interpretation von *Haec sancta* auf dem Basler Konzil," AHC 31 (1999): 72–143.

2. Thomas Morrissey stressed the importance of the ideas of Zabarella for *Haec sancta* but also pointed to the importance of Jean Gerson; see "The Decree *Haec sancta* and Cardinal Zabarella: His

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The Story of *Haec sancta*

Haec sancta was accepted by the Council of Constance (1414–18) in the days immediately following the flight of Pope John XXIII from the council. John XXIII was pope in the Pisan line at the end of the Great Western Schism. The pope left the council flat, apparently crushing many dreams of ending the schism by means of a general council. Faced with the schism and three different popes, the Council of Constance needed all the support it could get. Traditionally, a council had always needed and enjoyed papal support to secure its authority. The decree *Haec sancta* was to provide the Council of Constance with the possibility to continue its work, even when the pope had fled, which is part of what makes the document stand out in conciliar history.

Haec sancta was an undeniable success, insofar as it indeed enabled the council to put an end to the schism, by electing one unrivaled pope. Little more than a decade later, from 1431–32 onward, however, the same decree became an essential weapon for the Council of Basel in its fight against another, unrivaled pope, Eugenius IV. Ironically, then, whereas in Constance *Haec sancta* was a crucial element in the resurrection of the papacy, in Basel it nearly caused a papal downfall, since it was used there to develop the claim that the general council, and not the pope, held supreme authority in the church.[3] Thus, the correct interpretation of *Haec sancta* became an issue of prime importance in the discussion of church government in the fifteenth century. When, in the twentieth century, at the time of the Second Vatican Council—and the first edition of Brian Tierney's *Foundations of the Conciliar Theory*—the supreme power in the church was again disputed, a young theologian, Hans Küng, put *Haec sancta* back at the center of attention. The question whether this decree held a dogmatic assertion of the supremacy of a general council over the pope was an essential one, since, if it was to be considered dogma, *Haec sancta* would have been in discordance with the dogmatic assertions of First Vatican on the infallibility of the pope's teaching authority—yet another subject dear to Brian Tierney.

In the years surrounding Second Vatican many questions were raised. Did *Haec sancta* hold a dogmatic status? Or was it just a product of positive law? Was

Role in Its Formulation and Interpretation," AHC 10 (1978): 145–76. Recently the role of Gerson and Zabarella in the conception of *Haec sancta* has been recalled in Thomas Rathmann, *Geschehen und Geschichten des Konstanzer Konzils* (Munich: Fink, 2000), 118–19 and 175–79. Noël Valois first underlined Gerson's role; see *La France et le Grand Schisme d'Occident,* vol. 4 (Paris: Picard, 1902).

3. Michiel Decaluwe, "Le concile de Bâle face aux 'prétentions' souveraines d'Eugène IV," in *Eglises et justices,* ed. Veronique Demars-Sion and Renée Martinage (Lille: Centre d'histoire judiciare, 2005), 17–25.

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the decree meant for a specific situation or for any possible situation? Did the decree claim to possess permanent validity or did it not? Even though the exact meaning of *Haec sancta* is still being disputed, some of these questions have in the meantime been answered convincingly. Thomas Morrissey and, more recently, Walter Brandmüller and others see *Haec sancta* as a decree for a specific situation, permanently valid in the sense that it can be used whenever a similar situation arises.[4] They consider it to be not a dogmatic assertion but a product of law. These points of view on the juridical characteristics of *Haec sancta* have been accepted by many scholars. In this way, a fitting framework is offered for further research that can concentrate on interpreting *Haec sancta* at Constance without necessarily involving direct implications for theology or canon law in the twenty-first century.

The Text of *Haec sancta*

Morrissey and Brandmüller presented interesting interpretations of *Haec sancta*—yet their views, especially Brandmüller's, have been (and can be) criticized, and other interpretations should certainly be taken into account.[5] In addition, their arguments differ in one very essential aspect. Morrissey and Brandmüller use two slightly different texts. Indeed, Morrissey uses the text of *Haec sancta* found in Mansi's collection of conciliar documents, whereas Brandmüller prefers the text of the *Conciliorum oecumenicorum decreta* (COD).[6] According to Brandmüller, for instance, the decree of the fifth session of Constance reads at two different occasions *etiam si papalis existat,* whereas Morrissey believes that it first reads *etiam si papalis existat* and then only *etiam si papalis,* dropping *existat.* This difference in reading, and the conviction that he uses the better text tradition, leads Brandmüller to state a very true assertion—and one that can also be, as we will argue, applied to Brandmüller himself: "With this [the "false" text] he [Morrissey] merely offers a further argument for the necessity of 'taking care to use the right text'!"[7] Although in the past *Haec sancta* has been the object of extended scholarly discussion, surprisingly, establishing the right text of the decree has, up to now, hardly

4. Morrissey, *"Haec sancta,"* 145–76. Walter Brandmüller, *Das Konzil von Konstanz, 1414–1418,* 2 vols. (Paderborn: Schöningh, 1991), 1:239–61.

5. Brandmüller is seen by many as too much of a "papalist," or at least someone who has a too strong Catholic idea of what the "church" is; see Frenken, *Die Erforschung,* 405–17, especially the comments of Jürgen Miethke, 415–16. For other interpretations, see note 1.

6. Mansi, 27:590–91; COD, 385.

7. Brandmüller, *Konstanz,* 1:254n55, "Damit liefert er aber nur ein weiteres Argument für die Notwendigkeit der 'Sorge um den rechten Text'!"

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formed part of that discussion, yet the text problem is nevertheless, as Brandmüller so rightly points out, a very important one.

The two text editions of the decree used by scholars today are the ones published respectively by Mansi in his well-known corpus, *Sacrorum conciliorum nova et amplissima collectio,* and by COD. Both Mansi and COD carry the edition of the complete decrees of the Council of Constance. In the Mansi edition, the text tradition of the acts essentially goes back to one mid- or late-fifteenth-century manuscript. This tradition was printed for the first time by Johannes Rynmann in Hagenau in 1500. This text was reprinted repeatedly in several editions of the acts of the Council of Constance and eventually became part of the Mansi collection. Changes to the first edition by Rynmann were never made. In COD, we find another version of the acts of Constance: the work of Hermann von der Hardt, *Magnum oecumenicum Constantiense concilium,* was its source. It has been shown that the text of the acts of Constance in von der Hardt is considerably better than that found in Mansi. Von der Hardt used several manuscripts, of which the major part is—as has been shown by C. M. D. Crowder—more trustworthy than the text printed by Rynmann. On the whole, one could indeed agree with Brandmüller that COD is the better place to look for the text of the decrees of the Council of Constance.[8]

Nevertheless, what is true for the acts in general is absolutely not true in the case of *Haec sancta.* The text of the decree of April 6, 1415, found in the work of von der Hardt, and consequently also in COD, is based on only two manuscripts. Unfortunately, C. M. D. Crowder afterward revealed those two manuscripts to be the least trustworthy of all those used by von der Hardt.[9] Maintaining that the *Haec sancta* we find in COD is better than the one we find in Mansi, therefore, makes no sense. It is clear we have to be extremely careful with *both* texts. If one wants to interpret *Haec sancta,* the uncertainty on the text is, of course, a major obstacle. There is no printed text we can trust, and unfortunately, neither is there a manuscript we can trust.

I have, therefore, tried to reconstruct the text of *Haec sancta.*[10] I took all published versions of the first article of the decree promulgated on March 30; we will

8. See Finke, vol. 4; Christopher M. D. Crowder, "Le concile de Constance et l'édition de von der Hardt," *Revue d'histoire ecclesiastique* 57 (1962): 427–33; Karl August Fink, "Zu den Quellen für die Geschichte des Konstanzer Konzils," in *Das Konzil von Konstanz,* ed. August Franzen and Wolfgang Müller (Freiburg: Herder, 1964), 471–76; Remigius Bäumer, "Die Erforschung des Konstanzer Konzils," in *Das Konstanzer Konzil,* ed. Bäumer (Darmstadt: Wissenschaftliche Buchgesellschaft, 1977), 3–34.

9. Crowder, "Le concile," 416–17, 426.

10. Michiel Decaluwe, "A New and Disputable Text-Edition of the Decree *Haec sancta* of the Council of Constance (1415)," *Cristianesimo nella storia* 37 (2006): 417–44.

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refer to this decree as *Haec sancta (1).* Then, I took the first two articles of the final *Haec sancta,* promulgated on April 6, 1415; we will refer to this decree as *Haec sancta* (2). I compared them with all the versions of the two decrees I could find in the Vatican Library.[11] This enabled me to conjecture a version of the two decrees that I consider more trustworthy than the versions found in Mansi and COD.

The text I reconstructed is the following:

Fourth session, *Haec sancta* (1)

Et primo, quod ipsa synodus in spiritu sancto congregata legitime generale concilium faciens, ecclesiam catholicam militantem repraesentans, potestatem a Christo immediate habet, cui quilibet cuiuscumque status vel dignitatis, etiam si papalis existat, obedire tenetur in his quae pertinent ad fidem et extirpationem dicti schismatis et reformationem [generalem] ecclesiae Dei in capite et in membris.

Fifth session, *Haec sancta* (2)

Et primo [declarat], quod ipsa in spiritu sancto legitime congregata concilium generale faciens, et ecclesiam catholicam repraesentans, potestatem a Christo immediate habet, cui quilibet cuiuscumque status vel dignitatis, etiam si papalis existat, obedire tenetur in his quae pertinent ad fidem et extirpationem dicti schismatis, ac reformationem dictae ecclesiae in capite et in membris.

Item, declarat, quod quicumque cuiuscumque conditionis, status, dignitatis, etiam si papalis (fuerit), qui mandatis, statutis seu ordinationibus, aut praeceptis huius sacrae synodi et cuiuscumque alterius concilii generalis legitime congregati, super praemissis, seu ad ea pertinentibus, factis, vel faciendis, obedire contumaciter contempserit, nisi resipuerit, condignae poenitentiae subiiciatur, et debite puniatur, etiam ad alia iuris subsidia, si opus fuerit, recurrendo.

Three Ways to Read *Haec sancta*

With the proposed text of *Haec sancta* in mind, it is my intention to elaborate two claims about *Haec sancta* that have been made by scholars of the twentieth century. The first claim was made by Noël Valois. According to Valois, a major role was played in the formulation of *Haec sancta (1)* by the French theologian Jean Gerson.[12] In the second claim, Thomas Morrissey showed that another well-known father at Constance, the Italian canonist and cardinal Francis Zabarella,

11. Namely, the *Haec sancta* texts in Pal. Lat. 595, Reg. Lat. 981, Reg. Lat. 1031, Ross. 1064, Vat. Lat. 1335 (from 1423), Vat. Lat. 4173, Vat. Lat. 4174, Vat. Lat. 4175, Vat. Lat. 4176, Vat. Lat. 4178, Vat. Lat. 4179, Vat. Lat. 4942 (from 1438), Vat. Lat. 4943 (from after the Council of Basel), Vat. Lat. 4984 (late fifteenth century), Vat. Lat. 5597, Vat. Lat. 5598 (from 1421), Vat. Lat. 7297 (the codex of Firmanus). Some of these manuscripts offer the text of *Haec sancta* as a part of the journals of Cerretanus and Fillastre.

12. Valois, *La France,* 4:192.

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also played a very important role in formulating *Haec sancta* (2).[13] My contention is that not only did Gerson and Zabarella each play an important role in formulating the decree, their specific ideas are in fact the essential key to understanding *Haec sancta* correctly.

In interpreting *Haec sancta,* four texts are of major importance. I refer to, first of all, the decree read by Zabarella to the council in its third session (the first after the flight of Pope John XXIII) on March 26, 1415. The second one is the text of a proposed decree, prepared at a meeting of the German, French, and English nations at Constance on March 28 and 29. Finally, there are the two versions of *Haec sancta;* the first on March 30, 1415, the second on April 6, 1415.

It is essential to bear in mind the situation that confronted the Council of Constance in the days after the flight of John XXIII. The council was clearly in crisis. But what was at the center of this crisis *within* the council, among the people who felt the need to accept *Haec sancta,* was not that some wanted to end the schism and others did not. On this point there was an absolute consensus even before *Haec sancta* existed. However, the council fathers were less of one mind on how the schism should come to an end. Although the fathers still agreed on one essential point, namely, that the best chance of ending the schism was offered by a general council (*via concilii*), the essence of the crisis was that there was disagreement—a fundamental disagreement, at that—on what exactly was the via concilii.[14] This disagreement was, in fact, so fundamental that it threatened to tear the council into different factions. This exact question constituted the crisis: How could the consensus be saved and put into use? How could the disagreement be surpassed—neutralized—so that in the end all the council fathers of Constance would feel that they could go on working together?

That *Haec sancta* offered a solution to this problem is certain, since after its acceptance the council did indeed set disagreement aside and carry on. I offer the following interpretation of *Haec sancta* precisely to explain how the decree enabled the fathers to save consensus about their goal, notwithstanding several threats of disagreement along the way.[15]

13. Morrissey, *"Haec sancta."*

14. Some saw an essential role for the pope since he was a necessary part of the general council. Others thought that the council could also act without Pope John XXIII; but even this group was internally divided since some believed that acting without the pope, given the situation, should be authorized, and others were convinced that whatever was done was rightfully done, in accordance with canon law.

15. Cf. also Brandmüller, *Konstanz,* 1:250. Brandmüller stresses another aspect of the situation at the Council of Constance: "Es lässt sich nicht leugnen, dass sich die Doppelbödigkeit der Situation—man hatte keine Papst, aber man tat so, als habe man einen—auch auf die Genesis und damit das Verständnis von Haec sancta auswirken musste."

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Let us begin with the first of our texts, the decree of the third session of the Council of Constance.[16] Thomas Morrissey suggests that Cardinal Zabarella—reading, as the most junior cardinal present, the decree to the council—was one of the main influences in its formulation.[17] I absolutely agree with Morrissey. Zabarella had the position and the standing to be of influence, and his reputation as an outstanding canonist, capable of very precise formulation, certainly makes it very plausible that he was indeed an active author of the astutely phrased decree.[18]

The decree carried a simple meaning, one that, however, should not be overlooked, misunderstood, or overestimated. It said:

> The general Council of Constance, legitimately brought together to reform the church and to end the schism, declares that [*first article*] it is and was lawfully brought together, and has also been lawfully initiated and inaugurated. [*Second article*] By the departure of the pope, the council should not be considered to have ended, but to continue to exist in its integrity and with its authority, even if *ordinationes* have been made or will be made that contradict this. [*Third article*] This council does not have to/should not dissolve nor be dissolved before the ending of the schism and before the church is reformed in faith and mores, in its head and its members.

The decree also said that "the council would not be transferred to another place and that the members of the council did not have the right to leave the city." Thus the three main points of the decree are that the council was legitimately brought together (as a general council); that it still existed and accordingly had authority; and that there was no need or obligation to end it.

In the canonical tradition of which Zabarella formed an integral and important part, a considerable amount of learned literature had been written on general councils. In this literature, two generally accepted notions of a legitimate general council existed: that of a council with a pope, but also that of a general council without a pope. The notion of a popeless council had emerged from the canonical observation in the *Decretum* that a pope could not be judged unless he was heretical.[19] In the case of a heretical pope, a popeless general council should judge him.

16. COD, 407; Mansi, 27:580.

17. Morrissey, *"Haec sancta,"* 151.

18. On Zabarella, see Brian Tierney, *The Foundations of Conciliar Theory: The Contribution of the Medieval Canonists from Gratian to the Great Schism,* rev. ed. (Leiden: Brill, 1998), 199–214; Walter Ullmann, "Cardinal Zabarella and His Position in the Conciliar Movement," in Ullmann, *Origins of the Great Schism* (London: Burns, Oates, & Washbourne, 1948), appendix, pp. 191–231; and the judgment of Brandmüller (*Konstanz,* 248), "Zabarella, der zweifellos der Bedeutendste Kanonist unter allen Konzilvätern war."

19. Dist. 40, c. 6: "[Papa] a nemine est iudicandus, nisi deprehendatur a fide devius." For an extensive overview of how canonists moved from this statement from the *Decretum* to a consensus about the powers of a popeless council in the field of faith and schism, see Tierney, *Foundations.*

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What was not clear, however, was how such a popeless council should be brought together; a general council normally had to be brought together by the pope. Nevertheless, it could not reasonably be expected that a pope would bring together a council that had, as one of its most essential powers, the power to judge him to be heretical. The main accomplishment of the decree of the council's third session is that it seized the opportunity to overcome this problem. The first article of the decree is certainly the most important since it declares that the Council of Constance was brought together by the acknowledged pope, John XXIII. Any canonist would agree with the logical link leading from this first article to the second article, namely, that the departure of the pope from the council did not alter the fact that the Council of Constance was indeed a general council.

But what exactly was meant by the assertion that this council continued to exist with authority, and what was meant by the third article, which said that the council should not dissolve or be dissolved before the ending of the schism and before the church was reformed in faith and morals, in head and members? What were the powers of a popeless council? Were those powers limited to the field of faith (traditionally including schism), or were these powers more extended? The decree of the third session does not give a clear response to these questions. It underlines the fact that the Council of Constance *is* a general council. It says (in its incipit) that it was *brought together* to end the schism and for the reform of the church and (in the third article) that it should not dissolve before the schism was ended and the reform of the church in faith and morals was completed. This seems to favor the idea that the council still had all its powers in the field of reform, but it never explicitly confirms this claim—not even in the third article, which says *only* that the council should not dissolve before the reformation of the church in faith and morals has been accomplished. The decree left the question about the exact powers of Constance open, and it did this for a good reason. There was no consensus in canonical tradition on an extended power claim of a popeless general council,[20] and if such a claim were to be made, those holding a more traditional view of a general council, wherein the presence of the pope was essential to secure its full authority, would oppose it. Disunity, however, was something the council had to avoid if it were to continue its work. What the council needed was a consensus that allowed it to continue. Since consensus on the exact powers of the council at that moment was not to be expected, the authors of the decree of

20. Morrissey, *"Haec sancta,"* 152–53: "To Zabarella and the whole tradition of canonistic thought to which Zabarella belonged, a council when it was a question of faith, schism or heresy and any other cases that would be disruptive of or threaten the state of the church, was the final authority in the church *and only in such questions and circumstances*" (emphasis mine).

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the third session chose not to make clear statements on the council's authority. What they did was seize what they could get: consensus over the fact that Constance was still a general council in addition to an unclear power claim—indeed, the furthest possible power claim canonical tradition would allow.

The careful phrasing of the decree so that it would stay within the limits set by canon law is one indication that Zabarella played a significant role in the drafting of it. Zabarella acknowledged that, according to canon law, a council had to be brought together by the pope. In case of schism the best solution was that every pope involved called the council fathers together. Only if this did not work, Zabarella proposed, could the cardinals or even the emperor assemble the council.[21] The emphasis put in the incipit of the decree on the reasons why the council was brought together is another indication of Zabarella's role. In his writings prior to the council, the linking of the purpose of a council and its authority had been basic to Zabarella's thinking.[22]

Yet another argument for Zabarella's role can be found in a speech the cardinal made afterward, in his own name and that of his colleague Cardinal Pierre d'Ailly. Zabarella said that the two cardinals thought (and hoped) that all that would be done in the session (wherein the pope was not present), if it were done lawfully, would be agreed to by the pope (John XXIII).[23] In this way Zabarella reminded the fathers that what they decided was canonically valid only when it was accepted by the pope. He had also urged them to support the pope in order to let him fulfill the promise to abdicate that he had made in the second session. There is no evidence for any resistance to what Zabarella said. This is understandable because what he said was also an invitation to act first—while making sure the council acted in accordance with canon law—and to see later whether the pope would indeed agree. Just like the decree, these words of Zabarella were aimed at respecting the restrictions of canon law, but at acting nevertheless.

According to the French, German, and English nations at Constance, the decree of the third session did not suffice because, although acknowledging that the council could exist without a pope, it also seemed to suggest that the council had only limited powers, namely, in the fields of faith and schism. The three nations, therefore, met and prepared a proposed decree. Unfortunately, the text of this proposal has been lost.

21. Tierney, *Foundations,* 202.

22. Namely, in his tract *De scismate,* written in three stages between 1403 and 1408. See Morrissey, *"Haec sancta,"* 152.

23. Mansi, 27:581: "Et . . . sperant, quod ea, quae agentu in hac sessione, si recte et rite gesta fuerint, rata et grata habebuntur per eundem dominum nostrum Papam."

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We know, however, that it was submitted to the Italian nation and to the cardinals and served as a basis for the first decree *Haec sancta* that was read in the council on March 30, 1415, the day after the French, English, and German nations met. We also have some indication of what was decided during the meeting through a report on the meeting published by von der Hardt.[24] The report shows that the three nations had already formulated a text that was very similar to the final text version that would be accepted by the council on April 6, *Haec sancta* (2), at least its first two articles, since the report published by von der Hardt contains only the text of these articles.

Let us now turn to *Haec sancta* (1) and more specifically its important first article. There is a clear influence on *Haec sancta* (1) of a famous member of the council, the French theologian Jean Gerson, chancellor of the University of Paris. This means Gerson also played a very important role at the meeting of the French, English, and German nations at the end of March 1415. In his writings Jean Gerson developed a theory on the active role of the Holy Spirit in the church. The Holy Spirit is the seed that allows the church to reform itself, and its role and presence become apparent when the different hierarchical layers of the church, as representatives of every single member of the church militant, work together for reform. According to Gerson, the best representation of the church hierarchy is to be found in the general council. When the Holy Spirit is at work, it allows and inspires *epikeia.*[25] Epikeia is, in essence, a juridical-canonical notion that allows—in very specific situations—changing positive law to attain a goal beneficial to the whole ecclesiastical community.[26] Many conciliarists in addition to Gerson used epikeia to suggest different ways to convene a general council without papal support, the very problem that was considered in the decree of the third session of the Council of Constance. Zabarella, however, as a pure canonist, always refrained from using epikeia.[27]

Knowing all this, the origin of the first article of the first *Haec sancta* clearly points in the direction of Jean Gerson. It reads:

[Haec sancta Synodus Constantiensis . . . declarat . . .] quod ipsa synodus in spiritu sancto legitime congregata, legitime generale concilium faciens, ecclesiam catholicam militantem repraesentans, potestatem a Christo immediate habet.

24. Hardt, 4:81.

25. Louis B. Pascoe, "Jean Gerson: Mysticism, Conciliarism, and Reform," AHC 6 (1974): 135–53, at 141; Guillaume H. M. Posthumus Meyjes, *Jean Gerson: Zijn Kerkpolitiek en Ecclesiologie* (The Hague: Nijhoff, 1963), 206–9; Stefan Swiezawski, *Les tribulations de l'ecclésiologie à la fin du Moyen Age* (Paris: Beauchesne, 1997), 103–6.

26. Charles Lefebvre, "Epikie," in *Dictionnaire de Droit Canonique,* 7 vols., ed. R. Naz (Paris: Letouzey et Ané, 1953), 4: cols. 364–75.

27. Ullmann, *Origins of the Great Schism,* 191–231, especially 199.

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This should be interpreted in a Gersonian way as:

This holy Council of Constance declares that this synod, since it is convened in the Holy Spirit and thus constitutes a legitimate general council, thus representing the single members of the Catholic Church, receives its powers directly from Christ.[28]

The council declares that it derives its powers directly from Christ, and for this it uses epikeia. Why? Because it is a synod convened in the Holy Spirit, this makes it a legitimate council, and because it represents in its hierarchical structure every single member of the church militant. All this exactly matches Gerson's thoughts.

Another clear sign that Gerson played a significant role in the conception of the first *Haec sancta* is to be found in the second part of the first article. This reads:

cui quilibet cuiuscumque status vel dignitatis, etiam si papalis existat, obedire tenetur in his quae pertinent ad fidem et extirpationem dicti schismatis.

When the decree was read to the council by Zabarella, he omitted something, probably this:

et reformationem [generalem] ecclesiae Dei in capite et in membris.[29]

This part of the article should be interpreted, again in a Gersonian way, as:

Everybody, of whatever status or dignity, even if the papal one should exist, is to obey [this Council of Constance] in what pertains to the faith and the extinction of the schism and the general reformation of the church in head and members.

Several elements point in the direction of Jean Gerson. First of all, there is the expression *etiam si papalis existat,* "even if this dignity should exist."[30] This expression we can also find in a sermon of Gerson from March 23, 1415, immediately following the flight of John XXIII from the council and only days before *Haec sancta* (*1*) was issued.[31] In his sermon Gerson said, with the clause *etiam si papalis,* that even if there were someone of papal dignity, he had to obey a general council. Reading the text of Gerson's sermon, we also almost immediately discover what

28. One can see here that the word *synodus,* which appears in *Haec sancta* (*1*) but not in *Haec sancta* (*2*), really had a function.

29. It seems clear that Zabarella did omit something while reading the decree. The text of Mansi suggests that what Zabarella omitted was *et reformationem* [*generalem*] *ecclesiae Dei in capite et in membris.* Others, like Brandmüller, think Zabarella omitted a lot more, namely, also the complete text of what a few days later would become the second article of *Haec sancta* (*2*); see Brandmüller, *Konstanz,* 1:256. See also Morrissey, *"Haec sancta,"* 150.

30. For the translation of *etiam si papalis existat,* see Brandmüller, *Konstanz,* 1:254–55.

31. OC, 5:210.

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a general council was according to Gerson: a gathering where the whole Catholic Church was represented in hierarchy and no one was excluded. This means that if someone were of papal dignity, he would be part of the council. Even when it is taken into consideration that the clause *etiam si papalis* (*existat*) is a rather common phrase,[32] it is nevertheless extremely likely that the expression *etiam si papalis existat* in *Haec sancta* (*1*) was inspired by Gerson's sermon.

Haec sancta (*1*), however, did not say, "Even someone of papal dignity should obey a general council." It said, "Even if someone of papal dignity existed, he should obey the Council of Constance." In this way—that is, within this conditional mood—the decree casts doubt on the existence of a true pope at that moment in time. The underlying thought that was used here was that if there were three popes, and therefore all three of them were suspected to be false, one could not know which one was the true pope.[33] Therefore it was allowed, by using epikeia, to state that everyone should obey an authority that certainly was not false, namely, the general Council of Constance, even when papal support for it was lacking. Probably many of the fathers, including Jean Gerson, did not doubt that John XXIII was in fact the true pope, but everyone nevertheless knew that, were it to succeed in ending the schism, the council had to deal with those who did not accept him as true pope.

The final question answered by the first article of the decree is, "What is the authority of the popeless Council of Constance?" The answer to this question, too, is Gersonian. In what pertains to faith and schism, everyone should obey the acknowledged powers of popeless councils in the canonical tradition. The decree also claimed that the popeless Council of Constance should be obeyed in what pertains to general reform. This general reform is very Gersonian. What was presented by the first decree *Haec sancta* was a council where the Holy Spirit was clearly active. The Spirit allowed the council to be legitimate, it allowed the council to apply epikeia; and—in Gersonian thought—the essence of the Holy Spirit was that it allowed the church militant, brought together in hierarchy in a general council, to reform itself.

Haec sancta (*1*) was read in the fourth session by Cardinal Zabarella, but as already mentioned, the cardinal omitted some passages of the decree. What he certainly did not read to the fathers was that the council had the power to conduct a general reform of the church. Thus, he read what was accepted in the canonical tradition—that a popeless council had powers concerning faith and schism—but

32. See Brandmüller, *Konstanz,* 1:255n57.
33. Ibid., 1:255–56.

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omitted what was a Gersonian extension of it. He possibly also omitted an entire second article, which was very similar to the second article of *Haec sancta* (2).[34] The text of the decisions made by the meeting of the three nations, edited by von der Hardt, indicates that this second article already existed at the time, as we shall discuss shortly.

Apparently, the whole Council of Constance could not accept *Haec sancta* (1) as a basis for further work. This, however, was what the council needed in its crisis: a basis that could unite as many prelates and powers as possible in order to force the three schismatic popes to obey the council.

New negotiations led to a new decree—*Haec sancta* (2)—read to the council on April 6, 1415. This final version of *Haec sancta* is clearly influenced by the cardinal-canonist Zabarella. To a certain degree, the ideas of Gerson gave way to those of Zabarella and those drawn from the traditional papal view of general councils. The decree can be interpreted according to the ideas of all three. In other words, it was a decree that enabled the fathers to save the existing consensus in order to end the schism, while neutralizing the threat of disagreement about the exact way of going about it.

In discussing *Haec sancta* (2), we again focus on the first article of the decree. The first phrase of this article had somewhat changed in comparison with *Haec sancta* (1). It now read:

Et primo [declarat], quod ipsa in spiritu sancto legitime congregata concilium generale faciens, et ecclesiam catholicam repraesentans, potestatem a Christo immediate habet.

This way the decree no longer said:

This holy Council of Constance declares that this synod, since it is convened in the Holy Spirit and thus constitutes a legitimate general council, thus representing the single members of the Catholic Church, receives its powers directly from Christ

Instead it said:

And first [the Council of Constance declares] that it, brought together legitimately in the Holy Spirit, forming a general council and representing the Catholic Church, receives its powers directly from Christ.

34. Brandmüller, *Konstanz,* 1:256. Presumably, the text of this "unread" second article of *Haec sancta* (1) very much resembled the second article of *Haec sancta* (2). This is at least what is indicated by the already-mentioned report of the meeting of the three nations we find in von der Hardt. We have shown that the first article of *Haec sancta* (1) emphasizes that the role of the Holy Spirit is of key importance. For Gerson, the Holy Spirit's role allows for the use of epikeia. Zabarella did not accept this solution, as we will show later, and would therefore have been against this second article.

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The Gersonian idea of an active and legitimating Holy Spirit allowing epikeia and appearing in a meeting of representatives of all the members of the church thus became much less clear. This was done by putting *congregata* after *legitime.* By declaring *concilium generale faciens* instead of *generale concilium faciens,* moreover, emphasis was put on the fact that the Council of Constance indeed (still) was a *general* council.[35] A small change was made in order to express the idea that the council was legitimately brought together by the pope (and much less because of the Holy Spirit) and, therefore, it *still was* a general council and represented the Catholic Church. This exact same idea was also expressed in the decree of the third session that has been shown to be influenced by Zabarella.

Another idea of Francis Zabarella, expressed in his writings, was also inserted. Zabarella did not think that authority in the church, as said by Gerson in his sermon of March 23, lay with the single members of the church united in hierarchy in a general council. He thought the authority lay with the *congregatio fidelium,* the whole congregation of believers.[36] Therefore, the word *militantem* was omitted in *Haec sancta* (2)*,* and the council was presented as representing the church as a unity, not as the representation of single members united in hierarchy.[37]

With a decree holding that Constance derived its powers from Christ because it was brought together legitimately (what theoretically and canonically is the same as being brought together by the pope), a clear reference was made to the papal role in convening a general council and to the traditional papal claim that the pope, being the vicar of Christ, was to be seen as an essential element in assuring the general council's powers. Thus, *Haec sancta* was, as Brian Tierney has suggested, deliberately unclear about how one should understand the notion "general council."[38] Those who wanted to could understand it as "a council with-

35. Also, the omission of *synodus,* in comparison with *Haec sancta* (1)*,* has to be interpreted in this way. In *Haec sancta* (2)*,* emphasis was put on continuity: the Council of Constance was brought together legitimately as a general council and still was one. In *Haec sancta* (1)*,* emphasis was put on the role of the Holy Spirit, which made a synod into a general council.

36. Especially during a schism, when the papal office was *quasi vacans,* to which we will return below.

37. Tierney, *Foundations,* 203. Zabarella and Gerson both saw the church as a unity, which was the *congregatio fidelium*. Zabarella, however, saw the congregatio fidelium as a corporation with its own legal rights. The general council had legal rights since it represented the corporate congregatio fidelium. In *Haec sancta* (1)*,* however, Gerson wanted to show that the general council had the right to reform the church and, therefore, he chose not to work with the idea of "unity," preferring the idea of "hierarchy." It was, according to Gerson, the Holy Spirit that gave the council and the church the power to reform itself. He, therefore, had to prove that the Holy Spirit was indeed active in the council. One way of doing this was to put emphasis on the Council of Constance as representing the single members of the church, since the Holy Spirit was considered by Gerson to be active when the single members of the church were united in hierarchy.

38. Brian Tierney, "Hermeneutics and History: The Problem of *Haec sancta,*" in *Essays in Medieval History Presented to Bertie Wilkinson,* ed. T. A. Sandquist and Michael R. Powicke (Toronto: University of Toronto Press, 1968), 354–70, especially 366–69.

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out papal support"; others could understand "a council that still believed it had papal support." This skillfully created indistinctness resembles, again, the decree of March 26: a moderate or consensus-building decree that was aimed at creating the possibility at least of continuing as a council and at the same time was deliberately worded so as to avoid alienating the traditional papal view of general councils.

The first article continued as follows:

cui quilibet cuiuscumque status vel dignitatis, etiam si papalis existat, obedire tenetur in his quae pertinent ad fidem et extirpationem dicti schismatis, ac reformationem dictae ecclesiae in capite et in membris.

Compared with *Haec sancta (1),* only minor changes have been introduced. As in *Haec sancta (1), Haec sancta* (2) suggested the possibility that no true papal power existed in the church at that moment, with the phrase *etiam si papalis existat,* "even if someone of papal dignity existed." This, as mentioned, was of Gersonian origin, but was equally accepted in Zabarella's writings. Zabarella believed that during a schism the papal office was *quasi vacans,* which meant that the undoubted power of the church during a schism was held by the whole congregation of believers.[39] That someone of papal dignity possibly did not really exist or seemed at least unrecognizable at that moment was an idea of both Gerson and Zabarella. But, as we already pointed out, at the beginning of the first article of *Haec sancta (2),* there had been left open the possibility to understand "general council" as a general council either with or without papal support. If one understood the beginning of the decree to mean a council that still believed it had papal support, one could also interpret the phrase "even if someone of papal dignity existed" as a very normal claim that a pope had to obey a general council when he himself was present.[40]

39. Tierney, *Foundations,* 200–3.

40. Stephan Kuttner, in a very short reply to a review by Walter Brandmüller of Giuseppe Alberigo's *Decisioni dei concili oecumenici* (Turin: UTET, 1978), claims that the punctuation of the passage *cui quilibet cuiuscumque status vel dignitatis, etiam si papalis existat, obedire tenetur* is false. The text should be, according to Kuttner, *cui quilibet cuiuscumque status vel dignitatis, etiam si papalis, existat, obedire tenetur.* It is of course very difficult to be certain of the exact punctuation in medieval texts, but Kuttner's thesis is certainly a possible one. Kuttner's further claims, that it is simply necessary to understand the passage to have a comma after *papalis* and that the passage is always understood this way, are, in my view, not very convincing. That the passage cannot be understood without the comma is not true. Grammatically, it can be perfectly understood with or without the comma. How the passage *should* be understood is another question, one of interpretation and appreciation. That the passage is "always" understood in a certain way is a very surprising assertion by Kuttner, in view of all the existing discussions about *Haec sancta.* Even if it were true that the passage is "always" understood in one way, Kuttner's argument is, in my appreciation, not really fair. It is not because a passage is always understood in one way that this necessarily means that the passage *has* to be understood in this one way. It is furthermore the thesis of this es-

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There is no doubt about the last phrase of the first article in *Haec sancta* (2). This time, the article was certainly meant to end with *obedire tenetur in his quae pertinent ad reformationem dictae ecclesiae in capite et in membris.* Whether there is, in the context of *Haec sancta,* a significant difference between *generalem reformationem* and *reformationem,* I do not know. *Reformationem* is possibly a less harsh expression than *generalem reformationem.* It is clear, nevertheless, that, even in *Haec sancta* (2), the claim that the Council of Constance, even without a pope, had powers concerning the reformation of the church is a purely Gersonian element. That a council without a pope had the power to reform the church does not have a place in Zabarellan thought.[41] Zabarella did not read *Haec sancta* (2) to the council—Andreas Laskary, the *electus* of Posen, took his place—but was present when it was read during the fifth session and he did not oppose the decree. One could say he thus partly expressed his agreement with *Haec sancta* (2), but partly also his disagreement. This dual position can be understood. The first decree of *Haec sancta* (2) could be read in a Gersonian way, and when it was read in this way the clause about church reform was logical. Zabarella, however, did not accept Gerson's opinion, especially not his use of epikeia. During the negotiations between the fourth and the fifth sessions, Zabarella was able to introduce changes in the decree of the fourth session so that, in the fifth, it could be understood, first of all, according to his own personal opinion, but also, since Zabarella was a cardinal, according to the traditional papal view of general councils. In Zabarella's personal opinion, the decree explained that the Council of Constance was a general council, even without a pope present. The absence of the pope, in the canonical thought of Zabarella, limited the council's powers in the matters of faith and schism. He therefore refrained from reading *Haec sancta* (2) aloud to the council. Nevertheless, when one reads the decree with the traditional papal view of general councils in mind (as Zabarella was supposed to do in his role as a cardinal), the decree laid emphasis on the fact that it was brought together by the pope and held intact his (fictional) theory that the pope still supported the council, a theory, as

say that there is no "one way" to understand *Haec sancta.* I can find no convincing arguments to add a comma after *papalis,* nor can I find convincing arguments to certainly omit a comma. For me, it is an open, but not so very important, question. If we assume, together with Kuttner, that there should be a comma, this does not affect our interpretation of the decree. Even with the comma, the first article of *Haec sancta* (2) can still be interpreted in a Gersonian and a Zabarellan way, as well as according to papalist ideas; and the first article of *Haec sancta* (1) still fits Gersonian thought. Moreover, the word *existat* is still there and still indicates that a certain dignity can both exist and not exist. In other words, the opinion we find in the work of both Gerson and Zabarella—that there was no pope nor full papal dignity during the schism—is still reflected by the decree, and it still remains true that the question reflected by the use of the word *ex(s)istere* (is there a pope or not?) is not solved by *Haec sancta.* See Kuttner, "Zum Konzil von Konstanz," AHC 21 (1989): 428–29.

41. Morrissey, *"Haec sancta,"* 152–53.

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mentioned, that was also accepted in the speech Zabarella made in his own name and in that of Pierre d'Ailly on March 26. When one accepted that the pope still supported the council, it was clear that it had also powers in the field of reform. As a cardinal, therefore, Zabarella could accept *Haec sancta* (2).

The fact that *Haec sancta* (2) was conceived to have three different and equally possible interpretations also allows us to understand why *Haec sancta* (2) could count on a consensus at Constance, whereas *Haec sancta* (1) could not. The three possible interpretations also explain why the second article of *Haec sancta* (2) was accepted by all.

The second article could be read (according to both Gersonian and Zabarellan thought) as declaring that Constance, like every other legitimately assembled general council, had the right to endorse its decisions, even in confrontation with a pope: *quicumque cuiuscumque conditionis, status, dignitatis, etiam si papalis* [*fuerit*], "of someone of whatever condition, status, dignity, even if [it would be] papal." According to Gersonian thought, a legitimately assembled council was assembled "in the Holy Spirit" and included a pope when there was one, and did not include a pope when there was not. In both cases, it was logical that even the pope (because he is meant by the phrase "someone of whatever condition, status, dignity, even if [it would be] papal"), if at that time there was one or if there was one later on, would accept the council's decisions. According to Zabarellan thought, a legitimate council was brought together by the pope and had different powers depending on the presence or the absence of the pope. In both cases, even if there was an undoubted pope, it was clear that he had to accept what was also accepted in canon law. The same second article could nevertheless also be read with the theory in mind that Constance still had papal support, and that any legitimate general council had (and needed) papal support since, without it, it was not legitimate anymore. Here, too, it was clear that the pope, when there was one, would agree to the decisions taken by a council of which he was an essential and vital part. The addition of *etiam si papalis* here was not really needed, but did not do any harm, either.

Conclusions

When the French, German, and English nations at the Council of Constance met on March 28 and 29, 1415, they prepared a decree that could not count on the agreement of others in the council. Therefore, it could not be accepted as such in a general session on March 30, even if discussion had already taken place. For a

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week there was again intense discussion and eventually, on April 6, a decree called *Haec sancta* was accepted. The text of *Haec sancta* that was accepted by the fathers and the text proposed on March 30 that could not count on consensus among the same fathers are almost identical, or so it seems. There are some small textual differences between the two decrees. The logical supposition here is that these differences are important.

To detect the significance of the small textual changes, one first has to establish what differences there were. We have presented here a new edition of *Haec sancta,* using Vatican manuscripts stemming from traditions different from those in the editions of Mansi and the COD. Consequently, it was possible to show that the ideas of two important members of the council, Jean Gerson and Francis Zabarella, are the keys to comprehending how *Haec sancta* was meant to be understood. The decree can in fact be interpreted in three different ways and was meant to be interpreted in these ways. One can read it, first, according to the ideas of Gerson, who judged that the situation of the council and the whole church justified the use of epikeia; second, according to the ideas of Zabarella, which clearly originated in canon law. Third, there is the traditional papal view that the pope is an essential and necessary part of a general council. This third way of reading originated from the theory that Constance still had papal support.

One can in fact easily understand why *Haec sancta* was deliberately conceived to have multiple, but equally possible, interpretations. Only in this way could the fathers overcome the crisis that the council had to face. Only in this way was it possible to save the already existing consensus about the need for a general council to end the schism "by way of a council" (*via concilii*), and at the same time also overcome the very real and threatening problem of disunity about what the *via concilii* was. With *Haec sancta,* the Council of Constance proclaimed its superiority, and that of any other legitimate general council, and its authority to end the schism; but it proposed in the same decree three possible definitions of a legitimate general council. It was thus the product of a consensus arising out of a diversity in thought about sovereignty in the church.

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6

The Councils and the Holy Spirit

Liturgical Perspectives

NATACHA-INGRID TINTEROFF

An anonymous bishop asserted some time ago that a council is "a celebration of believers who put themselves into an attitude of faith, attempting to be open to God's Spirit."[1] Can one find a more appropriate setting in which to be open to the Spirit than a community assembled in prayer? The whole tradition demonstrates that a council's progress goes hand in hand with a full liturgical celebration. The oldest canonical directions related to conciliar sessions are entitled *On the Manner of Celebrating a Council* (*De modo celebrandi concilium*).[2]

Consequently, from the high Middle Ages the liturgical *Ordinals* made a special point to describe conciliar rituals. Until 1984 conciliar *Ordinals* were found in two complementary books, *The Roman Pontifical* and *The Bishops' Ceremonial*.[3] Since 1984 they can be found in a new *Bishops' Ceremonial* that is more mystagogical than *The Roman Pontifical*.[4] The chapter that deals with both plenary councils and diocesan synods declares:

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1. Quoted by Pierre Jounel, *La liturgie aux multiples visages* CLV (Rome: Mélanges, 1993), 327.

2. G. P. Pozzi, *"De modo celebrandi concilium" nel manoscritto Vat. Lat. 5748* (Vatican City: Tip. Poliglotta Vaticana, 1965).

3. *Pontificale romanum,* pars tertia, titulus V, *Ordo ad synodum* (Rome: Jacobus Luna, 1595); *Caeremoniale episcoporum,* liber primus, caput XXXI, *Qui ritus et ceremoniae adhibeantur pro celebratione synodi provincialis vel diocesanae* (Rome: Ex Typographia Linguarum Externarum, 1600).

4. Jounel, *La liturgie aux multiples visages,* 327.

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The church's ancient tradition willed that councils or diocesan synods include liturgical actions. Indeed, the church's government should not be considered merely as administrative activity. These assemblies are gathered under the inspiration of the Holy Spirit, just as those in the Acts of the Apostles [Acts 15:28] were assembled in the name of the Lord God to his praise and glory. These assemblies demonstrate the unity of Christ's body that shines in every way in the liturgy. Those who share a common charge also have to share in a common prayer.[5]

This point of view is quiet new. Over the course of time there has been considerable study of conciliar theory and canon law, but comparatively little on genuinely conciliar theology. As a result, according to Yves Congar, this oversight "emaciates everything," since "it sets aside the consideration of a certain anthropology and certain ethical and religious conditions of access to truth in the conciliar process."[6]

This remark is particularly apropos to the context of conciliarism[7] because, in fact, conciliar ecclesiology is rooted in theology as well as law.[8] Hélène Millet observed that the conciliar edifice is built upon the identity and linking of two phrases—the general council is the universal church.[9] These terms were already found in the convocation letters of the Council of Pisa (1409) written by the supporters of the Avignon and Roman popes during the Great Schism; but the joining of these terms was formalized by the Council of Constance in the decree *Haec sancta* (April 6, 1415), which declared that the council is "legitimately assembled in the Holy Spirit, and since it constitutes a general council representing the

5. *Caeremoniale episcoporum ex decreto sacrosancti oecumenici concilii Vaticani II instauratum,* pars VIII, caput I, *De conciliis plenariis vel provincialibus et de synodo diocesana* (Vatican City: Typis Polyglottis Vanticanis, 1984), 277–78.

6. Yves Congar, "Remarques sur le concile comme assemblée et sur la conciliarité de l'Eglise," in *Le concile au jour le jour, deuxième session* (Paris: Cerf, 1964), 17. See Giuseppe Alberigo "Il movimento conciliare (XIV–XV) nella ricerca storica recente," *Studi medievali* 19 (1978): 913–50.

7. The term *conciliarism* can be defined as a heterogeneous movement that took place most vociferously in the Catholic Church during the Middle Ages. It is based on a theory according to which the church's final authority lay not with the pope but with the full body of the faithful, the *universitas fidelium.* The pope possesses, therefore, not an absolute but merely a ministerial authority delegated to him for the church's good. The church expresses its will through a general council that represents it, because the final authority that resides in the church also resides in the general council. Consequently, a general council of the church has greater authority than the pope and may depose him if necessary. See Aldo Landi, "Conciliarisme," in *Dictionnaire historique de la papauté,* ed. Philippe Levillain (Paris: Fayard, 1994), 435.

8. See the introduction to Brian Tierney's new edition of *Foundations of Conciliar Theory: The Contribution of the Medieval Canonists from Gratian to the Great Schism,* rev. ed. (Leiden: Brill, 1998); and Francis Oakley, "*Verius est licet difficulius:* Tierney's *Foundations of the Conciliar Theory* after Forty Years," in *Nicholas of Cusa on Christ and Church: Essays in Memory of Chandler McCuskey Brooks for the American Cusanus Society,* ed. Gerald Christianson and Thomas M. Izbicki (Leiden: Brill, 1996), 15–34.

9. Hélène Millet, "La représentativité, source de la légitimité du concile de Pise," in *Droit et théologie dans la science politique de l'état moderne,* ed. Jean-Philippe Genet and Jean-Yves Tillette (Rome: Ecole française de Rome, 1991), 247n7.

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church militant holds power directly from Christ," so that "everyone, of whatever estate or dignity, even a pope, is obliged to obey."[10]

The meaning of "representing" (*repraesentans*) is ambiguous, however.[11] According to Hubert Jedin, if the common translation in German (as in English or French) is "represents" (*vertreten*), the right translation should be "to bring into the present" (*gegenwärtig setzen*) because of Christ's dual nature, consisting of his physical body (*corpus verum Christi*) and his mystical body (*corpus mysticum Christi*).[12] How can this choice be explained? For Yves Congar "a council is a representation of the church" inasmuch as "it achieves a concentration of awareness," which is made possible by the fact that it "is a sphere."[13]

If we examine medieval dedication rites for a church building, we observe that the building becomes a symbol of the church because an assembly is gathered within it, and because of the performance of the rite within it.[14] Thus the building is identified with the assembly and the assembly with the mystical body of Christ. As Lee Bowen has demonstrated, the transition from the church as building to the church as assembly—Christ's body—requires the performance of a symbolic ritual, that is, a liturgical action.[15]

As Dom Gregory Dix so aptly expressed it, "liturgy is the name given to the action of participating in the solemn worship of God by the priestly community of Christians who are Christ's body, the church."[16] Liturgy is "this action by which [the church] is given its divine nature through Christ."[17] Jean-Jacques von Allmen has written that "what makes the church first glimpse, and then see clearly, its

10. C. M. D. Crowder, *Unity, Heresy, and Reform, 1378–1460: The Conciliar Response to the Great Schism* (London: Arnold, 1977), 82. On the decree, see Brian Tierney, "Hermeneutics and History: The Problem of *Haec sancta,*" in *Essays in Medieval History Presented to Bertie Wilkinson,* ed. T. A. Sandquist and Michael R. Powicke (Toronto: University of Toronto Press, 1969), 354–70.

11. For a general view, see Adolf Lumpe, "Zu *repraesentare* und *praesentare* im Sinne von rechtsgültig vertreten," AHC 6 (1974): 274–90. For a juridical view, see Brian Tierney, "L'idée de représentation dans les conciles d'Occident au Moyen Age," *Concilium* 187 (1983): 43–51.

12. Hubert Jedin, *Bischöfliches Konzil oder Kirchenparliament? Ein Beitrag zur Ekklesiologie der Konzilien von Konstanz und Basel* (Basel: Helbing & Lichtenhahn, 1963), reprinted in *Die Entwicklung des Konziliarismus: Werden und Nachwirken der konziliaren Idee,* ed. Remigius Baümer (Darmstadt: Wissenschaftliche Buchgesellschaft, 1976), 204–5. The Fourth Lateran Council defined Christ's dual corporal natures in 1215 by proclaiming the principle of transubstantiation, and identified this with Christ's real body in the Eucharist, while Christian society is Christ's mystical body with the pope as the head. See Henri de Lubac, *Corpus mysticum: L'Eucharistie et l'Eglise au Moyen Age,* 2nd ed. (Paris: Aubier, 1944); and Ernst Kantorowicz, *The King's Two Bodies: A Study in Mediaeval Political Theology* (Princeton: Princeton University Press, 1957), especially chs. 3, 4 and 5.

13. Congar, "Remarques sur le concile comme assemblée et sur la conciliarité de l'Eglise," 15.

14. The dedication rite was originally an official pagan rite that consisted of both dedication and consecration of a place to a divinity. Among the Romans, the dedication of a city or a theater included such ritual actions.

15. Lee Bowen, "The Tropology of Mediaeval Dedication Rites," *Speculum* 16 (1941): 469–79. See also Eric Palazzo, *Liturgie et société au Moyen Age* (Paris: Aubier, 2000), 71–77.

16. Gregory Dix, *The Shape of Liturgy* (London: Dacre, 1945; repr., London: Black, 1975), 1.

17. Patricia Wilson-Kastner, *Sacred Drama: A Spirituality of Christian Liturgy* (Minneapolis: Fortress, 1999), 8.

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true face is meeting with Christ. It is on Christ's face that the Church learns who it is."[18] In liturgy "the Church is manifesting, creating and fulfilling herself as the body of Christ."[19]

In order to represent the church, according to *Haec sancta,* the council must also gather in the Holy Spirit, and the best way to define the Holy Spirit is to refer directly to scripture. In John 14:16–17 and 14:26 Christ says:

> And I will ask the Father, and he will give you another Advocate, to be with you forever. This is the Spirit of truth, whom the world cannot receive, because it neither sees him nor knows him. You know him, because he abides with you, and he will be in you. . . . But the Advocate, the Holy Spirit, whom the Father will send in my name, will teach you everything, and remind you of all that I have said to you. (NRSV)

One can say, therefore, that the Holy Spirit is a mode of presence sent by God to humanity in Christ's name.[20]

Edmund Schlink maintains that conciliar debates are introduced, developed, and concluded by liturgy.[21] Prayers to the Holy Spirit and the certainty of its direction induce both conciliar debates and conciliar decrees, and this is also the case for the prayers, readings, and doxologies of liturgy.[22] Consequently, liturgy transforms the place where the conciliar fathers gather in a sphere-assembly-body and allows the Holy Spirit, the inner active principle of the council, to begin its work. Thus, the aim of this study is to show the relationship between the performance of liturgical action and the presence of the Holy Spirit in the council, as well as the consequences of this relationship.

The Council: Liturgy and Sacred Space

For Mircea Eliade, sacred space, compared to profane space, is a place of hierophany, a connecting point between the divine and the world. Such a space has

18. Jean-Jacques von Allmen, "The Theological Frame of a Liturgical Renewal," *Church Quarterly* 2 (1969–70): 8–23.

19. Alexander Schmemann, *Introduction to Liturgical Theology,* 3rd ed. (Crestwood, N.Y.: St. Vladimir's Seminary Press, 1986), 31.

20. In a more formal definition, we could say it is the third person of the Trinity, distinct from but coequal with God the Father and God the Son. See Yves Congar, *Je crois en l'Esprit Saint* (Paris: Cerf, 1995).

21. Edmund Schlink, *Der kommende Christus und die kirchlichen Traditionen: Beiträge zum Gesprach zwischen den getrennten Kirchen* (Göttingen: Vandenhoeck & Rupprecht, 1961), 244. See also Anton Hängi, *Liturgie und Konzil* (Basel: Helbing & Lichtenhahn, 1994).

22. For the Councils of Constance and Basel, see Leo Koepp, "Die Liturgie der Sessiones Generales auf dem konstanzer Konzil," in *Das Konzil von Konstanz,* ed. August Franzen and Wolfgang Müller (Freiburg/Basel/Vienna: Herder, 1964), 241–51; and Bernard Schimmelpfennig, "Zum Zeremoniell auf den Konzilien von Konstanz und Basel," *Quellen und Forschungen aus italienischen Archiven und Bibliotheken* 49 (1964): 273–92. See also Richard Kay, "The Conciliar *Ordo* of Eugenius IV," *Orientalia christiana periodica* 31 (1965): 295–301.

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a door for an entrance (*reditus*) and an exit (*exitus*) and at the same time is a place either where the divine has made itself known or where a manifestation of the sacred has been evoked.[23]

The reditus-exitus schema is best expressed in Plotinus's thought. He considers exitus as a descent from the divine height continuously reaching lower points and moving farther away from its origins. Existence outside the divine is a downfall that can be recovered only by a restoration in the infinite. As a return, reditus begins to work when the fall ends in the lowest depths and when the movement turns upside down and proceeds to the heights. The sin of nondivine existence dissolves and God comes back as "all in each." Thus reditus means a release, and this reversal of movement is linked with worship. It allows for a rising back to the origins and is the instrument of a liberating and redeeming knowledge.

Christianity revived this duality while transforming it. Hierophany exists because space is sacred and is linked with both exitus and reditus, as Cardinal Joseph Ratzinger noted: "Liturgy achieves the inversion from *exitus* to *reditus,* from dispersion to worship, form God's descent to our ascent. Thanks to liturgy, earthly time enters into Christ's time. It is the major turning point in the process of redemption. The shepherd takes the lost sheep on his shoulders and brings it back home."[24]

Jean Beaupère explained to the fathers at the Council of Basel in 1434 that the word *church* (*ecclesia*) can cover the meanings of both mystical body (*corpus mysticum*) and political body (*corpus politicum*). According to Antony Black, this distinction is the "essence of Baslean conciliarism," although Pierre d'Ailly developed similar ideas in 1409.[25] In the first sense, the church is united directly with Christ, its head. In the second sense, the church is a political body whose head is the pope. When gathered in a general council, the church is a mystical body ruled by the Holy Spirit inasmuch as no one can be interposed between the church and Christ, from whom it holds its power, as the Council of Constance declared. The pope who attends the council is the most important individual in the assembly, although sovereignty (*potestas*) does not belong to him but to the church.[26] For John of Segovia also, the word *church* has two meanings, depending on whether it

23. Mircea Eliade, *The Sacred and the Profane,* trans. Willard R. Trask (New York: Harcourt, Brace, 1959), 22–27.

24. Joseph Ratzinger, *L'esprit de la liturgie,* trans. Genia Catala and Gregory Solary (Geneva: Ad Solem, 2001), 51.

25. Antony Black, *Monarchy and Community: Political Ideas in the Later Conciliar Controversy* (Cambridge: Cambridge University Press, 1970), 14; and Francis Oakley, "The *Propositiones Utiles* of Pierre d'Ailly," CH 29 (1960): 398–403.

26. MCG, 2:629.

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indicates the scattered church or the gathered one, as in a council.[27] This distinction was widely accepted, as similar formulations can be found, for instance, in Andrew Escobar's *Governance by Councils* (*Gubernaculum conciliorum*)[28] or *Quoniam veritas verborum* by Nicholas Tudeschi (Panormitanus).[29]

The most important point of this assertion is that it bypasses the merely legal notion of representation. As Panormitanus declared, "The universal church exercises its own jurisdiction *through* the council representing it."[30] Antony Black notes that "it is in the council that the church *enters* upon the active exercise of its own jurisdiction and power" (my emphasis).[31] The words *enter* and *through* must be understood in a liturgical sense. If the council were not a living and necessary development of the church, its claim to sovereignty would be meaningless. As Segovia says, the council is "a sort of transfusion or extension rather than a new creation of power."[32] This is why Otto von Gierke seems to miss the point in saying that conciliar doctrine viewed the church community as nothing more than a legal fiction.[33]

Furthermore, in order to enter into reditus a council must conquer space so that it will be separated from its physical surroundings by means of a dedication rite, since dedications can be defined as "the act of formally making over something or someone to another person, or in religious usage, to God."[34] After the dedication, the council's interior space is purified, in contrast to its surrounding space. Because the church is gathered inside a closed space, one can say that there is a "unity-closing" which is a re-forming, as Jacques le Goff has observed.[35] By this re-forming, the church can be restored to its sacred state.

The Great Schism had transformed the church from the purity of its previous beauty into the dust of multiple deformities, and it was often described as a desecrated temple that the Council of Constance restored and reconsecrated, like Jerusalem was reconstructed after the Babylonian Captivity.[36] The liturgical act of

27. Ibid., 3:728–30.
28. Hardt, 6:305.
29. DRA, 17:351.
30. Ibid., 16:499.
31. Black, *Monarchy and Community,* 18.
32. MCG, 3:803.
33. Otto von Gierke, *Political Theories of the Middle Ages,* trans. Frederick Maitland (Cambridge: Cambridge University Press, 1900), 29–30, 67–68, 72. See also Susan Reynolds, "The History of the Idea of Incorporation or Legal Personality: A Case of Fallacious Teleology," in Reynolds, *Ideas and Solidarities of the Medieval Laity in England and Western Europe* (Aldershot, U.K.: Ashgate, 1995), 1–20.
34. Paul Bradshaw, "Dedication," in *The New Westminster Dictionary of Liturgy and Worship,* ed. Paul Bradshaw (Louisville/London: Westminster/John Knox, 2002), 153.
35. Jacques le Goff, "Le concile et la prise de conscience de l'espace de la chrétienté," in *1274, année charnière: Mutations et continuité* (Paris: CNRS, 1977), 481–89.
36. See, for example, a statement made by Richard Ullerston, a professor of theology and later chancellor of Oxford University, in Hardt, 1:1143: "Let the vessels of exile be returned and let a new Jerusalem be made."

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incorporation at Basel is also essential here, because it represents a saving action of a sacramental nature, by which participants were transformed from nonmembership into membership in the body of the assembly.[37]

By the celebration of liturgical rites, the assembly is anthropomorphized and becomes a reduction of the church from several points of view: time, space, number, and personal status, but not virtue or power.[38] One could not substitute a written consultation for an assembly[39] because the council is a liturgical assembly and a primal sign. The most significant symbol in the celebration of liturgy is the assembly itself.[40] The liturgical assembly, even a very small one, is a sacrament, and consequently a sign of the real presence of the ultimate assembly, which will gather the dispersed churches both in time and space.[41] This ultimate assembly will liberate the powers that were held by the church in a latent way, but that can be formalized only by a conciliar assembly that possesses specific virtues.

By the liturgical process, the conciliar assembly is transformed into the bride of Christ.[42] To violate this assembly is to commit a sacrilege against Christ's own. In fact, conciliarists describe the church as the spouse of Christ the king, a very frequent image during the early Middle Ages.[43] For instance, Cardinal Giuliano Cesarini in his *Exhortation to the Bohemians* during the Council of Basel described the church as the queen of Christians. She always stands at the right hand of the king, her spouse, as he stands at the right hand of his Father.[44]

The marriage estate appears in the assembly, which is an undoubted sign of her spouse's presence within her, but also a sign of a mutual sharing between what he brings to her and what she brings to him, between what she receives from him and what he receives from her. In the assembly, church and spouse become one. Both of them transcend themselves in order to join the other. It is because this exchange is a sacramental and sacrificial reciprocity that an assembly keeps its identity what-

37. Joseph Wohlmuth, "Le concile de Constance et le concile de Bâle," in *Les conciles oeucuméniques,* 3 vols., ed. Giuseppe Alberigo (Paris: Cerf, 1994), 1:250.

38. DRA, 15:681.

39. One heard about "a council held by letters" in connection with some consultations made by Popes Pius IX and Pius XII in 1849 and 1946 concerning the Immaculate Conception and the Assumption of the Virgin Mary. See H. Holstein, "L'infaillibilité pontificale et le dogme de l'Assomption," *Etudes* 275 (1952): 145–56.

40. The Worship Office of the Archdiocese of Cincinnati, *We Gather in Christ, Our Identity as Assembly* (Chicago: Liturgy Training Publications, 1996), 40.

41. Jean-Jacques von Allmen, *Célébrer le salut* (Paris: Cerf, 1984), 51.

42. St. Paul gave the formulation of Christ's and the church's marriage in Ephesians 5:21–24. It has been continually revived.

43. It constituted the main theme of one of Philippe de Mezieres's works, called *Le livre des vertus du sacrement de mariage et sacrement des dames mariées,* MS Paris BN fr.1175.

44. Mansi, 29:695. See Jean Leclercq, "L'idée de royauté du Christ pendant le Grand Schisme et la crise conciliaire," *Archives d'histoire doctrinale et littéraire du Moyen Age* 17 (1949): 249–65.

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ever time or place it is celebrated; this is its sacramental side. Nevertheless, it is also linked to its time and place; this is its sacrificial side.[45] When any liturgy is celebrated, Christ is present glorifying the Father just as the people do. He is present not only among the assembly but in and through its very gathering.[46]

The Holy Spirit and the Concept of Presence

Presence can be achieved in various ways. Every form of divine presence, however, shares the same point of origin. God is wherever he acts. The modes of his presence result from his action.

One of the most important themes in the Council of Constance was a hopeful waiting for the Holy Spirit to bring renewal through the council, especially by bringing unity. One of the eloquent speakers on this subject was Jean Gerson in his sermon *The Spirit of the Lord* (*Spiritus Domini*). Preaching on Wisdom 1:7, he noted that the Spirit unifies, shapes, and enlivens the council. It unifies the members just as it is through the Spirit that the Father and the Son are said to be one in the Trinity. The bishops and priests who are both the church and spouses of Christ are made one with Christ through the Spirit.[47]

In Basel, it was said that "God has consented to unify the most holy synod and brought it to work under the invocation of his Spirit Paraclete in order to cultivate the field of the Lord's flock."[48] The synodal letter *Cogitanti,* called by some the Magna Carta of Basel's ecclesiology, begins by defining the conciliar constitution as the work of the Holy Spirit.[49] The seal that Basel chose for itself shows the council as the church's sovereign assembly. There are no intermediaries between the church represented by the council, on which the dove of the Holy Spirit descends while Christ ascends to the heights between the clouds symbolizing heaven. We can recognize the pope by his tiara standing within the community.[50] For John of Segovia a universal council cannot exist if those who are present are not gathered in Christ's name. Christ professed his presence in the midst of the assembly, so the council cannot be separated from the church. The council flows into the church and

45. On the metaphor of the mystical marriage in the Middle Ages, see Jean Gaudemet, "Note sur le symbolisme médiéval: Le mariage de l'évêque," *L'année canonique* 22 (1978): 71–80; Francis Oakley, "The *Tractatus de fide et ecclesia romano romano pontifice et concilio generali* of Johannes Breviscoxe," AHC 10 (1978): 99–130.

46. The Worship Office of the Archdiocese of Cincinnati, *We Gather in Christ, Our Identity as Assembly,* 7.

47. OC, 5:521–22.

48. Alberigo, *Les conciles oecuméniques,* 2:1047.

49. MCG, 2:234–35.

50. Carlo Bertelli, "Amédée VIII et la symbolique pontificale," in *Amédée VIII–Félix V, premier pape et duc de Savoie (1383–1451): Colloque international, 23–26 octobre 1990,* ed. Bernard Andenmatten and Agostino Paravicini Bagliani (Lausanne: Fondation Humbert II et Marie José de Savoie, 1992), 375–91.

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is united with it in such a way that each action made or sustained by the council is also made or sustained by the church itself. Christ called councils *congregatio* when he told Peter that "where two or three are gathered in my name, there am I in the midst of them."[51] Segovia refers here to Matthew 18:18–20, the scriptural pillar of conciliarism,[52] and generally speaking the main conciliar text.[53] The church fathers reclaimed this text,[54] according to R. Paquier, by setting it within an ecclesiological context.[55] As Francis Oakley noted, the argument for the superiority of a council over a pope alone was legitimated because Christ rules the council by a special and not merely general presence,[56] although the expression according to which councils are gathered in the Holy Spirit was not new.[57]

Christ's presence through the Holy Spirit is not less a "real presence" than the one that takes place in transubstantiation. Christ by his Spirit unifies every member of the body at every moment, so that the church, in assembly, appears as the sacrament of unity. This is why the assembly cannot endure divisions within itself, because this would divide Christ's body.[58] Consequently, the structure of the conciliar assembly has to be unified. While the structure of the Council of Basel fits this model, it is not the same for the system of nations in effect during the Council of Constance that was denounced by Pierre d'Ailly in his treatise *On Ecclesiastical Authority* (*De potestate ecclesiastica*). According to d'Ailly, the system of nations destroys the essential nature of the council, namely, its unity, because the four nations do not constitute a general council but several particular councils.[59] Christ's presence is linked with a sign, its gathering, and ceases beyond this sign, which means outside the assembly.[60] The expressions "two or three" and "in the

51. John of Segovia, *Tractatus super presidentia in concilio basiliensi,* in Pascal Ladner, "Johann von Segovias Stellung zur Präsidentenfrage des Basler Konzils," *Zeitschrift für Schweizerische Kirchengeschichte* 62 (1968): 1–113, at 103.

52. Johannes Helmrath, *Das Basler Konzil* (Cologne: Böhlau, 1987), 423; Black, *Monarchy and Community,* 22.

53. Yves Congar, "Structure ou régime conciliaire de l'Eglise," *Concilium* 187 (1983): 18.

54. For example, John Chrysostom, *In annam,* serm. 5, 1, in PG, 54:669.

55. Richard Paquier, *Traité de liturgie* (Neuchatel/Paris: Delachaux & Niestlé, 1954), 27.

56. Francis Oakley, "Natural Law, the *Corpus Mysticum,* and Consent in Conciliar Thought from John of Paris to Matthias Ugonius," *Speculum* 56 (1981): 804.

57. The fathers are sometimes said to be gathered "with the Holy Spirit" or "by the Holy Spirit." See Sebastian Tromp, *Corpus Christi quod est ecclesia. III De spiritu Christi anima* (Rome: Universitas Bregoriana, 1962), 384; and Yves Congar, *La tradition et les traditions,* vol. 1, *Essai historique* (Paris: Fayard, 1960), 151–66.

58. Corinthians 11:29: "For anyone who eats and drinks without discerning the body eats and drinks judgment upon oneself."

59. Hardt, 15:78. On the general argument of this treatise see A. E. Roberts, "Pierre d'Ailly and the Council of Constance," *Transactions of the Royal Historical Society* 28 (1935): 132–38. On the nations see Louise Loomis, "Nationality at the Council of Constance: An Anglo-French Dispute," *American Historical Review* 44 (1939): 508–27; and for Basel, Paul Lazarus, *Das Basler Konzil: Seine Berufung und Leitung; seine Gliederung und seine Behördenorganisation* (Vaduz, 1965).

60. Aimee-Georges Martimort, "Précisions sur l'assemblée," *La Maison Dieu* (Berlin: Ebering, 1912; repr., Vaduz: Kraus, 1960), 7–34, at 27.

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midst" (Mt 18:18–20) are significant. Most certainly they are allusions to the juridical principle "three makes a quorum" (*tres omnes faciunt*),[61] yet neither the biblical context nor theological and Trinitarian references can be neglected.[62]

Joseph Wohlmuth, writing about the Council of Basel, speaks of a "conciliar mystique" according to which a conciliar decision, when taken as the product of unanimity, becomes the expression of a direct relationship between Christ and his Spirit and the Pentecost miracle in the church.[63] One can speak of a conciliar process of experience by which the church will open itself to communication, becoming the Spirit's spokesperson. Similarly, but curiously, it is recorded that, during the presidency of Sir Arnold Savage in 1401, the English Commons showed the king that the parliamentary process (*le fait de parlement*) could well be likened to a Mass.[64] Liturgical actions are the instrument of this opening to communication and, consequently, the condition of the Spirit's presence in the council. The conciliar norm is the result of a charismatic process.

The Conciliar Pentecost

Jean Gerson wrote in his sermon *The Spirit of the Lord* (*Spiritus Domini*) that the Holy Spirit brings into the council a unity of heart and soul.[65] These words are also found in the morality play *Le concil de Basle:* "as the apostles were serving . . . there was among them one heart and one spirit [*erat eis cor unum et anima una*]."[66] The key terms come from Acts,[67] the only part of the Bible in which both expressions, one heart (in Greek, *homothumadon*)[68] and one soul, are linked together "in one" (in Greek, *epi te auto*).[69]

It is in an atmosphere of common and unanimous prayer that the disciples observed the order given by their master to stay in Jerusalem and "wait for the

61. Emile Mersch, *Le corps mystique du Christ* (Paris: Desclée, De Brouwer, 1936), 1:33.

62. Essential biblical texts confirming Matthew 18:20 are the ones expressing, first, the law of the concordant testimony of two or three witnesses, then, the law of the unanimous prayer: God intervenes where two or three are gathered. See also Deuteronomy 19:15.

63. Joseph Wohlmuth, "Conciliarisme et constitution de l'Eglise," *Concilium* 187 (1983): 58.

64. S. B. Chrimes, *English Constitutional Ideas in the Fifteenth Century* (Cambridge: Cambridge University Press, 1936), 68.

65. OC, 5:521–22.

66. *Le concil de Basle,* ed. Jonathan Beck (Leiden: Brill, 1979), verses 814–16.

67. Acts 2:32: "Now the company of those who believed were of one heart and one soul, and no one said that any of the things which he possessed was his own, but they had everything in common."

68. According to Lucien Cerfaux, this word is typical of Acts. It is found only there, besides Romans 15:16. See Lucien Cerfaux, "La première communauté chrétienne à Jérusalem," in *Recueil Lucien Cerfaux* (Gembloux: Duculot, 1954), 2:129.

69. We can find these words several times in the scriptures: Matthew 18:34, Luke 17:35, Acts 1:15, Acts 2:1, Acts 2:44, Acts 2:47, Acts 4:26, 1 Corinthians 7:5.

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promise of the Father" (Acts 1:4). We must understand the Pentecost event that will conclude the waiting in this spiritual context. The Spirit descends on the community, which perseveres in prayer "of the same heart" while they are "together in one place." "In one place" is far from the meaning of the Greek expression *epi te auto* in Acts, where it possesses "a primary technical meaning, evoking the union of Christian society, community and a truth union of both feelings and hearts."[70] For Congar, "beyond presence in the same time or the same place, *epi te auto* expresses both cohesion and unanimity in the gathered faithful. Each one participates in forming the body, as they did in the Jerusalem of Psalm 122:3."[71] Furthermore, the biblical narration of the Sinai assembly stresses the unanimity, the blending of hearts, which ruled the assembly gathered around the holy mountain, where all formed one heart both during the waiting for, and the acceptance of, the law.[72] In the Septuagint this day is "the day of assembly," literally the day of *ecclesia*.[73]

The "great exchange" of the liturgy in the power of the Spirit proclaims the presence and the mercy of God seen in the face of Jesus Christ. A conciliar decision occurs at the end of a charismatic liturgical process led by God and aimed at unifying a disintegrated humanity.[74]

Liturgy, Collegiality, and Reform

A council, according to Dom Grea, is a celebration because it duplicates the council of the divine persons.[75] As God is a Trinity of persons in perfect unity of life, wisdom, power, and operation from outside (*ad extra*), so we can reproduce his resemblance only by being united in a communion.[76] The council gathers in Christ's name in order to restore the mystical body so that the marriage of the church and its spouse is re-formed.[77] According to this conception, reform can be done only by a collegial assembly. This refers again to a fundamental element of

70. See Cerfaux, "La première communauté chrétienne à Jérusalem," 19; and J. Dupont, "La première Pentecôte chrétienne," *Assemblées du Seigneur* 51 (1961): 42: "They are together not only because of the place where they are staying but also by the union of hearts."

71. Congar, "Structure ou régime conciliaire de l'Eglise," 18.

72. Exodus 19:8. See Joseph Lécuyer, *Le sacrifice de la Nouvelle Alliance* (Lyon: Editions Xavier Mappus, 1962), 38, 156.

73. Deuteronomy 10:9, 1:10, 18:16.

74. Ivan Kireevski was in the tradition of the church fathers when he wrote, "for the whole truth, the whole being is needed." See A. Glorieux, *St. Korniakov et le mouvement slavophile,* vol. 1, *Les hommes* (Paris: Cerf, 1939), 74.

75. Dom Grea, *De l'Eglise et de sa divine constitution* (Paris: Maison de la Bonne Presse, 1907), 1:124.

76. See John 17:22.

77. J. Hamer, *L'Eglise est une communion* (Paris: Cerf, 1962), 213.

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liturgy, identified by Bernard Iddings Bell, namely, its social implications.[78] Individualism is utterly contrary to the very nature of liturgy.

The presence of the Holy Spirit in the assembly will allow the reformation of each individual, and this will allow the reform of the whole church. During the Council of Constance, Dietrich Kolde, in a sermon of July 15, 1415, asserted that, if the gifts of the Holy Spirit are given to each individual, they are given for the benefit of all.[79] As it is said in *Le concil de Basle,* unless everyone renounces abuses, vices, and sins, the church will never be reformed.[80] One preacher at Constance, speaking on June 7, 1416, of the transformation of Peter and the other apostles at Pentecost, insisted on the whole new change that took place and on its spontaneity.[81] Vitale Valentin, preaching on 2 Corinthians 3:18, declared that "we should be mended with the right fruits, and we will be transformed into new forms."[82]

The recipients of the Epistle to the Hebrews were less than assiduous in their attendance at the Christian assembly. They became "nonchalant."[83] According to Ignatius of Antioch, "when you gather regularly, Satan's forces are defeated and his work of ruin destroyed by the concord of your faith."[84] According to Giuseppe Alberigo, reform is an inner renewal of the church that rediscovers itself when it concentrates on the duties Jesus had given it, and it grows.[85] The church went through different periods, including some in which it stagnated or fell into decay. It has always come out victorious and reformed. Consequently, reform is considered as a continual uniting principle throughout church history.[86] Generally speaking, conciliarists often corresponded to the idea of the church fathers—as did, among others, d'Ailly in his *Rules for Reforming the Church in the Council of Constance* (*Canones reformandi ecclesiam in concilio Constantiensi*)—that "when councils are celebrated frequently, there are no schisms."[87] Councils have a monopoly of reform[88] and conciliar decrees are often said to be "healthy."[89] Moreover, the term

78. Bernard Iddings Bell, *The Altar and the World* (London: Dennis Dobson, 1946), 10–11.

79. *Monimenta Medii Aevi,* ed. Christian Wilhelm Walch (Göttingen: Sumptibus Bossigelianis, 1757–64), 1.2:87.

80. *Le concil de Basle,* verses 779–81.

81. *Monumenta Medii Aevi,* 1.3:203–5.

82. Ibid., 1.2:53.

83. Hebrews 5:11.

84. Ignatius of Antioch, *Epist. ad. Ephes.,* 13:1; See *Epist. ad Philad.,* 6:2.

85. Giuseppe Alberigo, "La réforme dans histoire de l'Eglise," *Revue d'histoire ecclésiatique* (1981): 78.

86. Hubert Jedin, *Reformation und Kirchenverstandnis* (Ratisbonn: Pustet, 1970), 77. See also Christopher M. Bellitto, *Renewing Christianity: A History of Church Reform from Day One to Vatican II* (New York: Paulist, 2001).

87. Hardt, 4:1422. Also Andreas Escobar in Hardt, 6:163–70.

88. MCG, 2:479; or Hieronymus of Florence in Siena in 1424. See Walter Brandmüller, *Das Konzil von Pavia-Siena* (Münster: Aschendorff, 1974), 194; and for a later opinion, C. O'Reilly, "Without Councils We Cannot Be Saved: Giles of Viterbo Addresses the Fifth Lateran Council," *Augustiniana* 27 (1977): 166–204.

89. Finke, 2:694.

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conciliarism suggests rebuilding,[90] and a council makes rebuilding and edification possible. This is contrary to other solutions—for instance, the subtraction of obedience, which is destructive because it divides when it is supposed to gather.[91] "It had a saving effect," says André Combes about the actions of Constance.[92] Nevertheless, according to Hubert Jedin, "it is only at the time of the Great Schism that conciliar ideas were joined with the desire for reform."[93] The adage "Who wants to be a reformer has to be conciliarist" is now commonplace,[94] although some papal advocates were also reformers, such as Leonhardt Huntpichler and Ambrogio Traversari.[95]

These ideas, according to which regular celebrations of councils are necessary because of the reforming power of the assembly, are expressed in the decree *Frequens,* which was promulgated at Constance on October 9, 1417, and which prescribes regular intervals for future meetings of general councils: "The frequent holding of general councils is a pre-eminently good way of cultivating the patrimony of Our Lord. It roots out the briars, thorns and thistles of heresies, errors and schism, corrects excesses, reforms what is deformed, and brings a richly fertile crop to the Lord's vineyard. Neglect of the councils, on the other hand, spreads and fosters the foregoing evils."[96] The concept of general reform is applied to the church taken as the body of Christ personified in the council. The corrective power of the council is rooted in the fact that it represents the universal church, and this representation is not a juridical one. Only a gathered assembly in the Holy Spirit can reform the church, which an individual cannot do because the Spirit is present only when several are gathered in its name.

90. Wohlmuth, "Conciliarisme et constitution de l'Eglise," 54.

91. Bernhard Hübler, *Die Constanzer Reformation und die Concordate von 1418* (Leipzig: Tauchnitz, 1867). On the other solutions, see Howard Kaminsky, "Cession, Subtraction, Deposition: Simon de Cramaud's Formulation of the French Solution to the Schism," *Studia Gratiana* 15 (1972): 366–97.

92. André Combes, *Facteurs dissolvants et principes unificateurs au concile de Constance* (Vatican City: Libreria editrice della pontificia università lateranense, 1961), 7.

93. Hubert Jedin, *Histoire du concile de Trente,* vol. 1, *La lutte pour le concile,* trans. A. Liefooghe (Paris/Tournai: Desclée, 1965), 17.

94. Karl August Fink, "Die Konziliare Idee im späten Mittehalter," in *Die Welt zur Zeit des konstanzer Konzils,* ed. Theodor Mayer (Stuttgart: Thorbecke, 1964), 119–34. Isnard Wilhem Frank, "Ein antikonziliarer Traktat des Wiener Dominikaners Leonhard Huntpichler von 1447/1448," *Freiburger Zeitschrift für Theologie und Philosophie* 18 (1971): 66.

95. Johannes Helmrath, "Reform als Thema der konzilien des Spätmittelalters," in *Christian Unity: The Council of Ferrara-Florence, 1438/39–1989,* ed. Giuseppe Alberigo (Leuven: Peeters, 1991), 146.

96. Crowder, *Unity, Heresy, and Reform,* 128–29. On the vocabulary of reform in the decree, see Phillip Stump, *The Reforms of the Council of Constance, 1414–1418* (Leiden: Brill, 1994), 222–26. The Council of Nicea instituted some regular provincial councils that had to gather twice a year. See Alberigo, *Les conciles oecuméniques,* 2:41. William Durant the Younger would seem to have been the first to propose the automatic celebration of general councils. See Constantin Fasolt, *Council and Hierarchy: The Political Thought of William Durant the Younger* (Cambridge: Cambridge University Press, 1990), 242.

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Anthropomorphized by liturgical action, the representative conciliar assembly possesses, as reform, a double meaning inasmuch as it gathers what is lost and resists what scatters. This double meaning is contained in two terms: the prefix *re* is retrospective, while both *form* and *present* are prospective.[97] The movement from the outside to the inside is both an entrance and an exit, an entrance because the church withdraws into itself in order to rediscover its reality in its very own center, and an exit because the return allows a rediscovery of the source that created it.

Conclusion

"Why an ecumenical council when a pillory could be enough?" asked Joseph de Maistre.[98] Assertions about the centrality of assembly are found in every contemporary thought about liturgy, and this conviction has become an "ecumenical treasure."[99] For the Lutheran Peter Brunner, the distinguishing feature of Christian worship is "the coming together of Christians," and for Roman Catholic Robert Taft, "we do all this together because we are a together."[100]

Pope John XXIII said of the Second Vatican Council in *Ad Petri cathedram* that "for those who behold it but are not one with this apostolic see, we hope it will be a gentle invitation to seek and find that unity for which Jesus Christ prayed so ardently to his Father in heaven."[101] In the conclusion of his encyclical letter *Ut unum sint,* Pope John Paul II exhorted the bishops to promote the unity of all Christians by supporting all activities or initiatives undertaken for this purpose in the awareness that the church has this obligation from the will of Christ himself.[102]

The key to understanding such ecumenical dialogue is the word *koinonia,* a term that proved especially important to the work of the Anglican–Roman Catholic International Commission.[103] Translated as "communion," it is described as

97. For the reform, see Gerhart Ladner, "Reform: Innovation and Tradition," in *Images and Ideas in the Middle Ages: Selected Studies in History and Art* (Rome: Edizioni Storia e Letratura, 1983), 535.

98. Joseph de Maistre, *Du pape* (Paris: Migne, 1862), 276.

99. Gordon W. Lathrop, *Holy People: A Liturgical Ecclesiology* (Minneapolis: Fortress, 1999), 22.

100. Quoted in Ferdinand Hahn, *Der urchristliche Gottesdienst* (Stuttgart: Verlag Katholisches Bibelwerk, 1970), 34; Robert Taft, *The Liturgy of the Hours in East and West* (Collegeville, Minn.: Liturgical, 1986), 342.

101. Latin text in *Acta apostolicae sedis* 51 (1959): 497–531. English translation in *The Pope Speaks* (Autumn 1959): 359–83.

102. John Paul II, *Ut unum sint* (London, 1997). See *Church Unity and the Papal Office: An Ecumenical Dialogue on John Paul II's Encyclical "Ut unum sint,"* ed. Carl E. Braaten and Robert W. Jenson (Grand Rapids, Mich.: Eerdmans, 2001).

103. ARCIC is the Anglican–Roman Catholic International Commission. The work began at Gazzada, Italy, on January 9, 1967. A Joint Preparatory Commission met there in fulfillment of a joint decision by Pope Paul VI and Archbishop Michael Ramsey, expressed in a Common Declaration during their meeting in Rome in

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"the union with God in Jesus Christ through the Holy Spirit. The Son of God, Jesus Christ, sends upon people his Holy Spirit to make them members of the Body of Christ because they share in the same Holy Spirit, become members of the same Body of Christ, adopted children of the same Father, and therefore are found together in a totally new relationship."[104]

Since Vatican II, we have heard many calls for Vatican III. Although we do not know when such a council will be gathered, we can hope the conciliar spirit will breathe again, and it can reasonably be said that, if the churches are to be reunited, it would be by sharing in the life of the Spirit and by koinonia through a conciliar liturgical assembly. This assembly "will constitute with the previous ones an inseparable and harmonious whole, a sole edifice of which it will be the coronation"[105] because "the sign of the unity of the whole and of the parts is the unity of the universal synod."[106] Contrary to de Maistre, we will need more than a pillory.

March 1966. Meeting three times in less than a year, that commission produced a report that was endorsed in substance by a letter of Cardinal Bea in June 1968 and by the Lambeth Conference a few weeks later. In January 1970 the signatories of this report first met as the ARCIC. Eight members of the Preparatory Commission continued to serve on the new commission. Various "Agreed Statements," issued as the commission carried out this work, were published together in 1981 as *The Final Report* and presented to the two churches for evaluation and reception. The Anglican Communion gave its official response in a resolution at the 1988 Lambeth Conference. The Catholic Church responded in 1991. Since the publication of *The Final Report,* the ARCIC has produced Agreed Statements on other important matters on which it was asked to enter into dialogue by Pope John Paul II and Archbishop Robert Runcie when they met at Canterbury in 1982. See William Purdy, *The Search for Unity: History of Relations between the Anglican and Roman Catholic Churches from the 1960s to the First ARCIC Report* (London: Chapman, 1996).

104. As told by Cormac Murphy-O'Connor, archbishop of Westminster, in an address delivered at the beginning of the ARCIC meeting that was held from May 14 to May 20, 2000, at Mississauga, Ontario. See Nicholas Sagovsky, *Ecumenism, Christian Origins, and the Practice of Communion* (Cambridge: Cambridge University Press, 2000).

105. Affé Guérin, *Les conciles: Généraux et particuliers* (Paris: Palmé, 1868–69), cited by Olivier Rousseau, introduction to *Le concile et les conciles, contribution à la vie conciliaire de l'Eglise,* ed. Rousseau (Chevetogne/Paris: Editions de Chevetogne, 1960), xiii.

106. Thomas de Vio (Cajetan), in Thomas Aquinas, *Summa theologiae,* 9 vols., *Sancti Thomae Aquinatis doctoris Angelici opera omnia,* 4–12 (Rome: Typographia Polyglotta S.C. de Propaganda Fide, 1888–1906), IIa, IIae, q. 39, a.1, n.11.

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7

From Conciliar Unity to Mystical Union

The Relationship between Nicholas of Cusa's Catholic Concordance *and* On Learned Ignorance

JOVINO MIROY

Delineating the relationship between the two major early works of Nicholas of Cusa, the *Catholic Concordance* (*De concordantia catholica,* 1433; hereafter DCC)[1] and *On Learned Ignorance* (*De docta ignorantia,* 1439; hereafter DDI),[2] is crucial in the writing of the cardinal's early biography. Joachim Stieber has taken pains to demonstrate the less than altruistic reasons for Cusanus's change of political alliance in 1437.[3] But

This is a revised version of Jovino Miroy, "From Unity to Union: The Relationship between the *De concordantia catholica* and the *De docta ignorantia,*" in *Nicolas de Cues: Les methodes d'une pensée*, ed. Jean Michel Counet and Stephane Mercier (Louvain la Neuve: Publications de l'Institut d'études medievales, 2005), 135–54, and is printed here with the permission of the original publisher.

1. *De concordantia catholica,* ed. Gerhard Kallen, in NC, vol. 14 (Hamburg, 1964); *The Catholic Concordance,* trans. Paul Sigmund (Cambridge: Cambridge University Press, 1991); *Concordance Catholique,* trans. Roland Galibois (Sherbrooke, Quebec: Centre d'études de la Renaissance, Université de Sherbrooke, 1977). See also Paul Sigmund, *Nicholas of Cusa and Medieval Political Thought* (Cambridge, Mass.: Harvard University Press, 1963); and Morimichi Watanabe, *The Political Ideas of Nicholas of Cusa, with Special Reference to His "De concordantia catholica"* (Geneva: Droz, 1963).

2. *De docta ignorantia,* ed. Ernest Hoffman and Raymond Klibansky, in NC, vol. 1 (Hamburg: Meiner, 1932); "On Learned Ignorance," in *Selected Spiritual Writings,* trans. H. Lawrence Bond (Mahwah, N.J.: Paulist, 1997), 85–206; *De la docte ignorance,* trans. Louis Moulinier (Paris: PUF, 1930). Numbers in parentheses refer to paragraphs of the Latin text and English translation.

3. "The fundamental career decision of Cusanus in 1436/37 can be attributed far more plausibly to motives related to his social status, his quest for benefices, and his professional training as a canon lawyer"; Joachim Stieber, "The 'Hercules of the Eugenians' at the Crossroads: Nicholas of Cusa's Decision for the Pope and against the Council in 1436/1437—Theological, Political, and Social Aspects," in *Nicholas of Cusa: In Search of God and Wisdom,* ed. Gerald Christianson and Thomas M. Izbicki (Leiden: Brill, 1972), 221–28, at 221.

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it would be a red herring to try to find out from these texts the reasons Cusanus had for abandoning the council's majority and siding with the minority. Cusanus's reasons might be related to events that happened in the Council of Basel after DCC came out.[4] Nevertheless, if we compare the two works, what can we say is the historical and conceptual relationship between them?

In his "Nicholas of Cusa and the End of the Conciliar Movement: A Humanist Crisis of Identity," James Biechler takes DDI as the beginning of Nicholas of Cusa's philosophical program. He also states that Cusanus disowned his earliest major work, making only two references to it in his later works and excluding it from the collection of his works.[5] Cusanus's abjuration of DCC is probably the greatest proof against any assertion that it occupies a place in the whole body of his theological, mystical, or even metaphysical corpus. Biechler explains this by proposing that Cusanus experienced not only a radical change in his political affiliation but even a conversion comparable to that of other medieval thinkers. He says: "It is my contention that Cusanus' abandonment of the conciliar party in favour of alignment with the papal position was far more than a political act. More comprehensively understood, his change of allegiance involved a fundamental realignment of religious and theological values as well as other significant intellectual and vocational changes."[6] He sees "learned ignorance" (*docta ignorantia*) as the expression of the new intellectual synthesis that Cusanus reached when he abandoned conciliarism and became a papal legate.

Biechler vehemently opposes the view that continuity exists between the two texts. Disagreeing with Paul Sigmund, who has traced some similarities between the two texts in his famous work on DCC, he thinks that there exists only an illusion of continuity, arising from the "preservation of language."[7] Biechler's account, however, is actually even more untenable than the ones he tries to refute, for in explaining Cusanus's shift from conciliarism to papalism he simply says: "One might say that Nicholas one day simply found himself on the side of papacy and only later modified and developed a rudimentary ecclesiology to support his new allegiance."[8] According to Biechler, it is for this reason that Edmond Vansteenberghe thought that Cusanus had a change of practical judgment only,

4. There are four years (1433–37) between the publication of the conciliar tract and this shift and at least two years (1437–39) between the shift and the publication of DDI; six years separate these two works.

5. James Biechler, "Nicholas of Cusa and the End of the Conciliar Movement: A Humanist Crisis of Identity," CH 44 (1975): 5–21.

6. Ibid., 8.

7. Sigmund, *Nicholas of Cusa and Medieval Political Thought,* 280; Biechler, "Nicholas of Cusa and the End of the Conciliar Movement," 12.

8. Biechler, "Nicholas of Cusa and the End of the Conciliar Movement," 11.

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not of theory.[9] To say this, however, is even more unflattering than to say that Cusanus changed sides for selfish reasons. Furthermore, a person of Cusanus's intelligence and seriousness could not have made such a decision of going against the majority without having understood his reasons for doing so.

Biechler seems to be onto something in thinking that Cusanus's decision in 1437 is not reducible to a shift in political allegiance but is related to a deeper religious question.[10] However, he comes to the wrong conclusion if he implies that Cusanus suffered an identity crisis that was resolved only by a religious conversion forcing him to leave church politics altogether. Later events in his life clearly show how abandoning the Council of Basel made him an even more controversial political figure. And since Cusanus, unlike St. Augustine and other converts, did not leave any record of his metanoia, Biechler simply conjectures that this change involved a "radical realignment of cognitive symbols and values."[11] Furthermore, he seems to contradict himself when he declares that, whatever Cusanus discovered as he wrote DDI, his familiarity with Neoplatonic philosophy in the writing of DCC would suggest that "discovery in this case implies that he found something for which he was searching."[12] Such a statement weakens the assertion that there is a radical discontinuity between the two texts.

On the other hand, we cannot say that DDI's metaphysical speculations directly flow from the metaphysics of DCC. Hans Gerhard Senger, in his discussion of the relation of the two texts, has clearly shown that, in the first place, DCC is not a metaphysical work. For his part, Senger sees "anticipations" or "hints" (*vorverweisen*) in DCC of ideas that Cusanus would fully develop only in DDI and *De coniecturis*.[13] He states: "At a time when he was preoccupied with the current controversies in the council, which led him to seek fundamental clarification of the concept of church and state as well as reform, the jurist and canon lawyer drafted a plan to write a philosophical manuscript."[14] In other words, he believes that although DCC is certainly not a metaphysical work but a conciliar one, Cusanus was already busy with metaphysical questions. To demonstrate this, Senger refers

9. He also cites Edmond Vansteenberghe, *Le Cardinal Nicola de Cues* (Frankfurt: Minerva, 1920), 65, who said: "La volte-face de Nicolas s'explique donc moins par le dedans que par le dehors: elle implique de sa part, moins un changement de theorie qu'une modification de jugement pratique."

10. Biechler, "Nicholas of Cusa and the End of the Conciliar Movement," 20.

11. Ibid.

12. Ibid.

13. Hans G. Senger, *Die Philosophie des Nikolaus von Kues vor dem Jahre 1440; Untersuchungen zur Entwicklung einer Philosophie in der Frühzeit des Nikolaus (1430–1440)* (Münster: Aschendorff, 1971), 54–77.

14. "In einer Zeit, in der er mit aktuellen Streitfragen des Konzils beschäftigt war, die ihn zu grundsätzlicher klärung des Kirchen- und Staatsbegriffs sowie zu reformshlägen veranlassten, fassten der Jurist und Kirchenrechtler den Plan zu einer philosophischen Schrift" (ibid., 67).

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to a part in DCC where Cusanus, after a brief metaphysical discussion, says: "See elsewhere." Senger thinks that since Cusanus does not go back to this matter again in DCC itself, he must be referring to a different work still to be written.[15]

Senger's discussion showed that both texts contain several similar ideas. He says that both adhere to the idea of a light metaphysics, which considers God as light and creatures as shadows of that eternal light.[16] Furthermore, DCC seminally contains some ideas found in DDI: "That which is referred to in *De concordantia catholica* as *combinatio* later [i.e., after *De docta ignorantia*] meant *proportio.* And while the full meaning of this concept is shown first in the works beginning in 1440, its theoretical content is already operative in *De concordantia catholica.*"[17] In this sense, Senger locates the direct continuity between the two texts in the notion of *combinatio,* even if this concept itself is not central to DCC.[18] He seems, however, to contradict himself when he says, "The universe is determined in a harmonious way by the totality of its diverse parts, its conjoined and irreversible order, the mutual exertion of influence and conjoined relations of references. We recognize in this an exact correspondence to the expositions in *De concordantia catholica.*"[19] In this way, concordance, from which the notion of combinatio cannot be separated, stands as the clear conceptual link between the two texts, as well. Although Senger's arguments are more lucid than Biechler's, his notion of *vorverweise* carries its own bag of methodological problems. The idea of anticipation could very well come from a reading into the previous text of the reader's interpretation of the later one, making it difficult to ascertain whether the anticipation is actual or merely perceived.

As the late Jos Decorte said, tracing the relationship—historical or conceptual—between the two texts is not going to be easy. What Senger has proven, however, is the fact that Nicholas already thought of a metaphysical book at the time of the writing of the conciliar tract,[20] even if some of the key concepts of the

15. Ibid., 59. "Et sicut suprema sphaera est ut umbra ultimi angeli, ita huius hierarchiae, cuius primum mobile sive nona sphaera principium est, terra ultima umbra et faex elementorum. Deinde tertia mixta natura habet se ad instar aliarum quoniam aut ex rationali aut sensitivo aut vegetativo, et in ea ordines et chori ut in angelica. Et est elementativa umbra huius. De hoc alibi" (DCC, I, 2, ≠11 [h XIV, 36]).

16. Senger, *Die Philosophie des Nikolaus von Kues,* 58, 75.

17. "Was in the De concordantia catholica mit combinatio bezeichnet ist, heist später, d. h. Seit De docta ignorantia, proportio. Wenn sich auch die volle Bedeutung dieses Begriffes erst in den Werken ab 1440 zeight, so ist doch sein gedanklicher Inhalt schon in De concordantia catholica wirksam" (ibid., 66–67).

18. Ibid., 64.

19. "Eintracht insgesamt bei Verschiedenheit der Teile, festgefügte unumkehrbare Ordnung, wechselseitige Einflussnahme und festgefügte Bezugsverhältnisse bestimmen das Universum. Wir erkennen in dieser Stelle eine ganaue Ensprechung zu den Augsführungen in de concordantia catholica" (ibid., 67).

20. Ibid., 61, 75.

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later works, such as "coincidence of opposites," are not found in DCC.[21] Thus, the position of a radical discontinuity between them is no longer acceptable. But neither is the position of a direct continuity, for Cusanus has changed not only his political position, but also and more especially his religious attitudes. Thomas Izbicki's article "The Church in the Light of Learned Ignorance" casts new light on this whole discussion. Izbicki argues that Cusanus sought to redefine himself as a papalist.[22] This accords with Biechler's idea that DDI is an articulation of a newfound synthesis. But in a manner that is different from Biechler's proposal, such a synthesis, although ostensibly metaphysical and theological, is ultimately linked to a political attitude. The *Letter to Arévalo* shows how Cusanus applied his new metaphysics to his new political affiliation. Izbicki's study demonstrates that the metaphysical and theological ideas of DDI are not oblivious to the convictions of the papalist Cusanus.

In this essay, however, we assert that, alongside the *Letter,* DDI is also another way by which Cusanus redefined himself as a papalist. As Senger says, in DDI he becomes more than a jurist and canonist, assuming the hat of metaphysician and theologian. Yet, we assert with Biechler that a change has occurred in Cusanus, who narrates in another letter (to Cardinal Cesarini) how a religious experience has changed his view of God and our knowledge of him. Whether this constitutes a religious conversion akin to Augustine's is hard to prove from the evidence that Cusanus's writings provide, but there is enough evidence for us to say that this religious experience led him to conclusions that developed and amended the religious views of DCC.

Despite this new intellectual context arising from a real religious experience, there still exist intellectual continuities between DCC and DDI. Truly significant is the continued presence of the theory of concordance in DDI. Although it can be said that Cusanus goes beyond the idea of concordance with his notion of God as coincidence of opposites, his metaphysics of contraction can be paralleled to the theory of concordance on which he based his conciliarism. However, we hold that, although the idea by itself appears similar, within the new intellectual context arising from the religious experience, it is no longer exactly the same idea. Thus, with regard to the relationship between the two texts, we state that there is a development from the conciliarist to the papalist Cusanus that is paralleled by other developments, for example, from canonist to metaphysician. Compar-

21. Ibid., 58.

22. Thomas M. Izbicki, "The Church in the Light of Learned Ignorance," *Medieval Philosophy and Theology* 3 (1991): 186–214.

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ing DCC and DDI, we realize that Cusanus also enlarges his religious and metaphysical theories: from canon law to apophatic theology, from the metaphysics of concordance to the metaphysics of contraction, from searching for unity to desire for union. Thus, we posit that learned ignorance is a way by which Cusanus, now a papalist, answers fundamental questions on God and church differently from the canonistic solutions found in the conciliar tract. This explains why he did not include DCC in his collected works, for, in his mind, he has outgrown—for better or worse—the ideas contained in it.

Our discussion is divided into three parts. In the first part, we shall discuss the philosophical-religious experience that became the catalyst and dynamic of his metaphysical speculations. In the second part, we delineate the other developments paralleling his political change, namely: (1) his shift from the belief that God could be known positively through canon and common law to his conviction that he could be known negatively through learned ignorance; and (2) his shift from seeking unity solely in the visible community of the church to desiring union with the One himself. At this point, we compare the ecclesiologies of DCC, DDI, and his *Letter to Arévalo.* In the third and final part, we will show how his religious experience and his method of learned ignorance transform the theory of concordance so central in his conciliarism.

Experience of God's Transcendence

The title of Cusanus's first metaphysical work not only wished to speak about divine knowledge through learned ignorance, but also to signify Nicholas's deep understanding of God and his creatures. True knowledge of God necessarily leads to knowledge of one's ignorance. This means that what is truly essential about God that the human mind can reach is the fact that God is transcendent or beyond understanding.

In a letter to Cardinal Cesarini, he narrates the critical experience that led to the discovery of this intellectual method: "What for so long I desired to attain by different paths of learning but previously could not until returning by sea from Greece when by what I believe was a celestial gift from the Father of Lights, from whom comes every perfect gift, I was led to embrace incomprehensibles incomprehensibly in learned ignorance, by transcending truths that can be humanly known" (#263).[23]

23. "quae iam dudum attingere variis doctrinarum viis concupivi, sed prius non potui, quousque in mari me ex Graecia redeunte, credo superno dono a patre luminum, a quo omne datum optimum, ad hoc ductus

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For so long he wanted to "embrace incomprehensibles"; now, however, he knew that he could only accomplish this "incomprehensibly in learned ignorance." In order to grasp God this way, he transcended truths that could be humanly known. Learned ignorance is an epistemological method that happens through a process of getting beyond "truths-that-can-be-humanly-known" in order to attain "truths-that-cannot-be-merely-humanly-known." Cusanus was saying not that there is a divine way of knowing, but that learned ignorance is transcendent. Here, transcendent means that this knowledge continually purifies what it grasps of the sacred; that each time the mind reaches a certain knowledge of the divine, it remembers that such a knowledge eternally falls short of the object of knowledge itself, and so it continues to search for new knowledge. It does this because the truth that learned ignorance wishes to grasp is itself transcendent, it being the "simplicity where contradictories coincide" (*simplicitatem ubi contradictoria coincidunt*) (#264).

In this sense, one cannot really separate Cusanus's understanding of God from the method by which he understands him. God by definition is one that is known only through constant purification of what we already know of him. We understand, therefore, that this method of understanding is not merely an epistemological discovery but also an experience of the numinous through intellectual methods. His *reason* being purified, Cusanus had to use another mental or spiritual tool in order to get to God. Thus, he found God in *not* finding him. The experience recounted at the end of the text was so important event that it led to the metaphysical articulations in DDI and accounts for what differentiated it from DCC despite all lines of continuity. In Cusanus, the foundation of the metaphysical system is clearly an experience by the intellect of God's transcendence.[24]

Let us rehearse how the metaphysics of DDI demonstrates God's transcendence. There the notion of God is inseparable from the disproportionate relationship the creator has with creatures. The text looks at God as maximum, unity, infinite, and measure. We must be careful not to understand these appellations for God as knowledge of God. The mind gazes at God only through learned ignorance. God is maximum, who can be identified only with himself, and as such, he is infinite and goes beyond contradiction: "The maximum is such that in it the minimum is maximum, so that the maximum infinitely and completely tran-

sum, ut incomprehensibilia incomprehensibiliter amplecterer in docta ignorantia, per transcensum veritatum incorruptibilium humaniter scibilium" (*Epistola auctoris ad dominum Iulianum cardinalem,* in NC, h I, 163–64).

24. Cusanus refers to Socrates, who also had a similar experience with the divine that inspired him to live a life "seeking wisdom" (DDI I, 1, #4 [h I, 6]). Anselm's *Proslogion* follows a similar structure. See Jos Decorte, "Medieval Philosophy as 'Second Voyage': The Case of Anselm of Canterbury and of Nicholas of Cusa," *Mediaevalia textos e estudios* 7–8 (1995): 127–51.

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scends all opposition" (#43).[25] To push this notion of a transcendent God further, he explains how the words *maximum* and *minimum* are to be understood: "'maximum' and 'minimum,' as they are employed in this book, are transcendent terms of absolute signification, so that, above all contraction to quantity of mass or of power, they, in their absolute simplicity, embrace all things" (#12).[26] God qua maximum means that (#1) he is absolutely and actually all that can be; and (#2) he is above all affirmation and negation (#12).[27] Moreover, God is that which is conceived to be and all that is conceived not to be. This way, he is the Infinite that limits all things and is not limited by anything: "According to the theology of negation, nothing other than infinity is found in God" (#88).[28]

Some passages of DDI might suggest that his metaphysics do not show such a notion of a transcendent God quite clearly, for there is a tendency in his expression to put the maximum in relation to creatures. Nevertheless, we have to be very careful in saying this, because we must remember that in Cusanus the knower stands before the idea of God qua maximum in learned ignorance. The idea of God's transcendence is grasped in the act of not being grasped. Naturally, Cusanus would agree if we said that the notion of God's transcendence was not dependent on one's learned ignorance. His independence from the human mind, whether qua reason or intellect, is his very transcendence. Paradoxically, the human being can express and hold on to such transcendence only in learned ignorance. God, then, is truly infinite: "because the infinite escapes all proportion, the infinite as infinite is unknown" (#3).[29] This means that since God is transcendent, human beings' appreciation of his transcendence is incomplete and deficient, for it is incumbent on our finite intellect.[30] In other words, we come to know that God is transcendent simply because we know our own mental finitude. We never really get to see God's infinity firsthand; we always get to it through inference. God is infinite, because we know our mind is finite. Thus, we experience God's infin-

25. "quod minimum est in ipso maximum . . . ita quod penitus omnem oppositionem per infinitum supergreditur" (DDI I, 16 [h I, 30]).

26. "Maximum autem et minimum, ut in hoc libello sumuntur, transcendentes absolute significationis termini existunt, ut supra omnem contractionem ad quantitatem molis aut virtutis in sua simplicitate absoluta omnia complectantur" (DDI I, 4 [h I, 11]).

27. For this reason Lawrence Bond thinks that Cusanus, in his reconstruction of theology, wished to supersede both positive and negative theology and wanted Christ to be sole medium to God. H. Lawrence Bond, "Nicholas of Cusa and the Reconstruction of Theology," in *Contemporary Reflections on the Medieval Christian Tradition: Essays in Honour of Ray C. Petry,* ed. George Shriver (Durham, N.C.: Duke University Press, 1974), 81–94.

28. "Et non reperitur in Deo secundum theologiam negationis aliud quam infinitas" (DDI I, 26 [h I, 55–56]).

29. "Propter quod infinitum ut infinitum, cum omnem proportionem aufugiat, ignotum est" (DDI I, 1 [h I, 6]).

30. See also Donald Duclow, "Anselm's Proslogion and Nicholas of Cusa's Wall of Paradise," *Downside Review* 100 (1982): 22–30.

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ity only through the experience of our own intellectual and existential finitude. Cusanus shows this by making learned ignorance the epistemological method by which the mind finds its relationship with a transcendent God. Thus, by positing learned ignorance as the way that certainly leads to God's transcendence, Cusanus points to God's infinity by pointing to knowledge's finitude.

As God is transcendent, the proper relation with him that human beings find available to them is one of disproportion. This is the meaning of learned ignorance; one understands that there is no proportion between the creation and God. Cusanus says: "There is no transition to the Infinite" (*ne fiat transitus in infinitum*) (#96).[31] What he means by this is that God stands utterly at the side of alterity, over which the finite (or this side) cannot jump. Note, however, that as maximum the creation is not the other side of God, for no contradiction can be posited against the infinite. The absence of any opposition clearly states that there is no transition to the infinite from *this* side, for there is no *this* or *that* side when it comes to God. Simply put, the finite is not the opposite of the infinite: "God is absolute maximumness and absolute unity, preceding and uniting things that are absolutely different and distant, for example, contradictories, between which there is no mean" (#113).[32] With regard to opposites, Cusanus also wants to say that there is no mean between them. God therefore accomplishes the impossible by being coincidence of opposites,[33] and this he does not by standing as middle ground between the two contradictories, but by being both simultaneously.[34]

From Unanimity to Learned Ignorance

Cusanus's experience of God as transcendent inevitably leads to the formulation of a way of relating to God that is quite distinct from the one we shall tease out from DCC. One might object and say that the earlier work, as a political text, does not possess a philosophy of religion. The political question of the DCC, however, actually presupposes a philosophy of religion because members of the Council of Basel were mainly asking where truth lay in the Catholic Church.[35]

They thought that the agency in the church that best manifested (or repre-

31. DDI II, 1 (h I, 63). See also DDI II, 4, #150 (h I, 95).

32. "Deus est absoluta maximitas atque unitas, absolute differentia atque distantia praeveniens atque uniens, uti sunt contradictoria, quorum non est medium" (DDI II, 4 [h I, 73]).

33. Cusanus himself does not use this phrase: *Nicholas of Cusa on Learned Ignorance,* trans. Jasper Hopkins (Minneapolis: A. J. Banning, 1985), 6.

34. In eternity there is no contradiction between priority and posteriority: DDI, 59.

35. Antony Black, *Council and Commune: The Conciliar Movement and the Fifteenth Century Heritage* (London: Burns & Oates, 1979), 5.

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sented) God had highest authority. Therefore, we would find a philosophy of religion together with the political philosophy. Nevertheless, this sort of objection presupposes that Cusanus's political thought can be separated from his more religious writings. This essay attempts to mitigate that tendency by seeing the relationship between DCC and DDI, painting a more complete picture of his thought.

According to the religious philosophy of DCC, God's providence includes the guidance that Christ and the Holy Spirit afford the church in its political needs (II, 34, #263 [h XIV, 305]). Cusanus also adheres to the catholic precept that God is encountered through the sacraments that have been instituted by Christ as visible signs of the divine for the moral purification of believers (II, 19, #167 [h XIV, 204-5]; II, 34, #263 [h XIV, 305]). By virtue of the sacramentality of the church, the true church is, as it were, still hidden; for what is seen are mere signs. Thus, DCC thinks that people can participate in the signs without necessarily being true Christians. Only God will know whom the true Christians are: "only those who are united to God in love are in the church and God alone knows them" (I, 5, #29 [h XIV, 50]).[36]

However, what we see in these politically useful theological ideas is the tendency in DCC to find where the divine certainly resides in order to establish the seat of power. We see the idea that one can actually pin down where the numinous can be seen and that we can canonically define that presence. The essential question of DCC concerns the method by which God's will can be known with veritable certitude. It also looks at the church as the sole means of attaining God and salvation. Religion, then, means participation in the sacramental as well as in the hierarchical life of the Roman Church. The belief is that the church has already received everything for its perpetual survival (II, 34, #263 [h XIV, 305]) and that the Holy Spirit ensures the fidelity of priests to wisdom and the good (II, 25, #206 [h XIV, 248]; II, 30, #226 [h XIV, 269]). At the same time, the church stipulates where exactly God's will is manifested, which is in the law. Cusanus says that adherence to the law is a definite sign of God's presence (III, 36, #535 [h XIV, 448]); for "to prostrate oneself before the church and one's spiritual fathers is to prostrate before God" (III, 24, #457 [h XIV, 415]).[37] Thus, rulers approximate God's rulership when they enforce and promulgate laws (II, 13, #116 [h XIV, 151–52]). Political authorities that act in his place on earth manifest God's presence (III, 7, #348 [h XIV, 359–60]). The identity between God and the law leads

36. "Et tunc solum per caritatem deo uniti sunt de ecclesia, et hos solus deus cognoscit."
37. "Deo enim procidunt, qui ecclesiae et spiritualibus istis patribus procidunt."

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to the discernment of the divine presence through unanimous consent: "God is present where there is simple consent without deformity" (II, 10, #104 [h XIV, 139–40]).[38] This implies that believers have an effective means by which they can know the exact moment of the divine visitation. The conciliarists based this belief on the idea that unity is a gift from the Holy Spirit; and that, since unanimity is not natural, when attained it must imply divine intervention (II, 34, #262 [h XIV, 304–5]). Concordance through consensus is a way by which Cusanus proves his conciliarism in DCC, and which he ties up with the decisions of past councils and the fathers. The idea of unity as equal to the pneumatic indwelling was not abandoned by Cusanus even when he became a papalist; for he used it to show that the Council of Basel, having become divided, is no longer pleasing to God.[39]

In DDI, however, Cusanus's notion of knowledge of the divine will and presence changed quite dramatically from the one in DCC, for now he believed that the soul progressed into the maximum through learned ignorance. We see that in DDI the search for God is no longer done merely in terms of the church and law, but in terms of an inward turn of the soul from sensible knowledge to the intellect. As far as Cusanus wants to penetrate God himself through intellectual abstraction, we can say that in DDI he goes away from the visible presence of God found in nature and in the church, so that he could find him abstracted from signs. Yet, he found him only in not finding him: that is, only through learned ignorance. If in DCC God could be found in certitude, in DDI God could be found only in the uncertainty of conjectures. His movement from positive to negative theology is a movement from canonical-theological means of knowing God to immediately knowing him through learned ignorance. However, negative theology implies that God is never truly found except in his own gracious revelation. Thus, in not finding God he comes to a true knowledge of him; that is, he comes to know God in his transcendence. God qua transcendence is what simple unanimity failed to make him realize. For if God could clearly be seen, there is greater probability that one is not seeing God.

We cannot exhaust the whole import of Cusanus's notion of negative theology in this essay.[40] We want simply to show that in the light of learned ignorance,

38. "Ibi enim est deus, ubi simplex sine pravitate consensus." See also DCC, II, 19, #167 (h XIV, 2042-5); II, 23, #167–68 (h XIV, 239–41).

39. Sigmund, *Nicholas of Cusa and Medieval Political Thought,* 244–60.

40. See Donald Duclow's studies on this subject: "Pseudo-Dionysius, John Scotus Eriugena, Nicholas of Cusa: An Approach to Divine Names," *International Philosophical Quarterly* 12 (1972): 260–78; "Gregory of Nyssa and Nicholas of Cusa: Infinity, Anthropology, and the *via negativa*," *Downside Review* 92 (1974): 102–8; "Mystical Theology and Intellect in Nicholas of Cusa," *American Catholic Philosophical Quarterly* 64 (1990): 111–29.

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DDI would have trouble accepting the conciliar notion that says, "God is present where there is simple consent without deformity." This becomes clear when we analyze the ecclesiology found in DDI. There we find that the union of the blessed with Christ and each other is the true concordance of the church; this means, therefore, that the union of the church here and now is not absolute nor an end in itself. What leads to God is not merely the agreement with the majority, but the adherence of the mind to Christ in learned ignorance.

From Unity to Union

When Cusanus left the council in 1437, he did not put his new political stand in the same elaborate manner as he did in DCC. His major writings now concentrate mostly on theological and philosophical questions. However, this does not necessarily mean that he was no longer interested in political questions. Having become famous as a mystical theologian during his lifetime, Cusanus became notorious as "the Hercules of the Eugenians." He put down his defense of papalism in some of his letters, two of which were composed before the writing of DDI and one after. At the same time, we remember that the last chapter of DDI is entitled "The Church" (*De ecclesia*). This means that if as a canonist his mind was not far from metaphysical questions, it is also true that as a metaphysician he was also not indifferent to ecclesiological (and thus political) questions. We shall now analyze the letter written to Arévalo and compare it to the DDI in order to describe the change in his political thought.[41] The *Letter* reveals how he applied the metaphysics of DDI to his papalism. We shall see in this discussion that although we can trace continuity between the ecclesiology of DCC and that of DDI and the *Letter,* there is a definite development given the new religious and political contexts of the later works. Comparing the *Letter* to DDI, we can say that the ecclesiology of the *Letter* draws from that of DDI. DDI, therefore, should not be seen only as the programmatic work on Cusanus's theological and philosophical thought, but also as a response to his earlier conciliar tract.

Book 3, chapter 12 of DDI shows the inextricable link between DCC and DDI, not so much by virtue of the identity of their content but insofar as the ecclesi-

41. Nicholas of Cusa's *Letter to Rodrigo Sánchez de Arévalo,* translated by Izbicki in "The Church in the Light of Learned Ignorance." The Latin text can be found in *De auctoritate praesidendi,* ed. Gerhard. Kallen, Cusanus-Texte 2, traktate 1 (Heidelberg: Carl Winter Verlag, 1935), 106–12, which reprints the version found in vol. 2 of the 1514 Paris edition as "Epistle 1." The translation is quoted according to paragraphs, given parenthetically in the text. The Latin is referred to as Kallen with page numbers. For *De auctoritate praesidendi,* see H. Lawrence Bond, Gerald Christianson, and Thomas M. Izbicki, "Nicholas of Cusa, 'On Presidential Authority,'" CH 59 (1990): 19–34.

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ology of DDI draws from and develops the one of the DCC. But one might ask whether this chapter, which speaks simply on the church triumphant, has anything to say about the church militant. The text will show, however, not only that it is inaccurate to say this, but also that the discourse on the church triumphant is an oblique discourse on the church militant.[42]

In terms of the metaphysics of DDI, we could say that the visible church is a sign of the invisible true church, since the sensible is merely a contraction of the maximum. This is an idea that Cusanus had held since the writing of DCC. In all his writings until the *Letter,* he would say that the true members of the church are known only by God; for the true church (*vera ecclesia*) is one that transcends what the eyes can see and the ears can hear. Rather, it is known through the generality of reason: "This concealed church of Christendom cannot be known in its sensible particularity of members, who hold this confession and remain worthy of love, but only is grasped in a certain generality of reason through the power of reason" (#4).[43] From the point of view of learned ignorance, the external and visible manifestation of the church militant is not the absolute truth of the true church. They are conjectures, which means that no matter how well they manifest the truth of the church triumphant, they always falls short of it. On the one hand, the visible church, with its sacraments, canons, and duly constituted authority, is the way by which believers see God on earth; on the other hand, this church is separate and different from the invisible church in heaven: "This church of this sensible world is constituted of those who show by sensible signs that they participate in Christ, since they are those who acknowledge Christ, the son of God. For this reason this church has sacred signs constituted so that we may know through them those who are Christ's in the way in which conjectural knowledge can be obtained from signs" (ibid.).[44] As visible sign, it reflects the glory of the heavenly congregation and takes that as its exemplar and end. Cusanus, however, does not call heaven the enfolding of the visible church, since only Christ enfolds all unions. At this point, the positive link of DDI with DCC becomes even more apparent; for in DCC, the church militant is subordinated to the triumphant church. Such subordination implies that the militant church as visible reveals the truth of the church in heaven. This also implies that the discourse on the triumphant church is only

42. DDI does speak of the church militant when it refers to the "journey of the wayfarer" (*peregrinamur,* DDI III, 12 #256 [h I, 158]) or "this life" (*hac vita,* DDI III, 12, #255 [h I, 158]).

43. "Tunc haec Christi occultata remanet in sua sensibili particularitate membrorum cum sciri nequeat, quis hanc teneat confessionem et amore dignus existat, sed solum in vi rationis quadam universalitate rationis attingitur" (Kallen, 107).

44. "Constituitur haec huius sensibilis mundi ecclesia ex iis, qui sensibilibus signis se Christum participare demonstrant, uti sunt Christum filium Dei confitentes" (ibid.).

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in view of the church militant, just as discourse on God is not in view of God but of the subject.

But the continuity between the ecclesiology of the two texts is only apparent, for within the context of learned ignorance, the metaphysics of contraction, and papalism, Cusanus has definitely changed the way by which he views the church. In DDI, he identifies unity with the maximum, and in the process does not reduce that idea to the church. Learned ignorance tells him that unity cannot be in the universe except as a contraction. The identification of unity with the maximum means that, although the church cannot exist without unity, it is not unity in itself. Its concordance, as it were, is a mere contraction of the absolute primordial union.[45]

What this also means is that he rethinks his notion of unity from adherence through consent (or assent) to the truths of the church as manifested in the canons to one that refers to God himself. Unity is no longer solidarity with the majority, but is the transcendent itself. What this means is that unity, just like God, who is both in all things and nothing, is both present and absent in the church militant. Now, this shift in the meaning of unity makes Cusanus go beyond ecclesial concordance and makes him desire the best method in attaining union with the maximum unity, which he finds in Jesus, the absolute and contracted maximum: "Therefore contemplate how great this union is where there is found the divine, absolute maximum union; the union of the divinity and the humanity in Jesus; and the union of the church of the triumphant, the union of Jesus' divinity with the blessed" (#261).[46] Union with Christ is that which leads to absolute union; and that union is the true church: "through Jesus, the union of the church is resolved into the divine union, from which it also has its beginning" (#262).[47] Thus, the communion of the blessed in heaven is *vera ecclesia* because it is united with Jesus, who is one with the maximum.[48]

Here we see that although DDI does form a link with DCC through the metaphysics of concordance and the primacy of Christ, DDI, in redefining unity and church, is not merely a continuation of the thought of the conciliar tract but is

45. Cusanus defines the church this way (DDI III, 12 [h I, 161]): "Nam ecclesia unitatem plurium, salva cuiusque personali veritate, dicit absque confusione naturarum et graduum.

46. "Hic igitur contemplare, quanta est haec est haec unio, ubi unio maxima absoluta divina et unio in Iesu deitatis et humanitatis et unio ecclesiae triumphantium deitatis Iesu et beatorum reperitur" (DDI III, 12 [h I, 161]).

47. "Et ita unio ecclesia . . . resolvitur tamen per Iesum in unionem divinam, a qua etiam ipsa initium habet" (DDI III, 12 [h I, 162]).

48. The maximum unity, it should be remembered, is a Trinity. Union is identified with the Holy Spirit: "Unio enim absoluta Spiritus sanctus est" (ibid.): "propter quod in spiritu Iesu est unio triumphantium, qui in Spiritu sancto est" (ibid.). This is another example of how DDI not only forms a continuity with DCC, which said that consensus is a sure sign of the presence of the Holy Spirit, but also serves as a development of it.

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a positive development from it. The *Letter to Arévalo* later demonstrates that his mind was not far from church government when he wrote DDI. Through its discourse on the triumphant church, DDI wishes to state how the church can achieve concordance through learned ignorance. First, Cusanus states that the true church imitates the divine by embracing multiplicity in the enfolding of Christ, who is present in the diversity. Second, believers, through adherence to the maximum itself, can achieve unity. Third, real union requires the believer to go beyond the certitude of the sensible signs of the maximum (*consensus*), and enter the life of the intellect and faith in order to find Jesus.

DDI transcends the unity afforded by adherence to the council or pope in order to see how humanity is hypostatically united with the divine. From here on, without negating the sensible hierarchy of the militant church, Cusanus would accentuate the degrees of ascent that the mind undergoes in the process of becoming united with the church triumphant. This ascent is nothing but the transcendent movement of the mind through learned ignorance, by which the intellect gradually attains union with God. In DDI, the believer achieves membership in the true church not through consensus but through the mind's union with Christ. Thus, the intellect turns away from the external and visible signs of the universe in order for it to know God's transcendent goodness: "by an inner savour you will detect, as with the most fragrant incense, the inexpressible goodness of God" (#258).[49] Ultimately, the mind's ascent to union emanates from the gratuitous love of the maximum. As he says in the *Letter:* "Wherefore, we call this church mystically the body of Christ, because nothing but the grace of Jesus Christ is unfolded" (#4).[50]

Concordantia in the DDI

A complete discussion of how DCC and DDI are related must ask whether Cusanus goes on to adhere to the theory of concordance that buttressed his conciliarism after he changed his political affiliation and became a theologian/metaphysician. It might surprise us that, although he abandoned the Council of

49. "Quoniam interno gusto inexpressibilem Dei bonitatem quasi in fumo aromaticissimo odorabis" (DDI III, 12 [h I, 160]. As we have seen, the adherence of the intellect to Christ opens up the possibility of believing and loving him. Cusanus also hints that ascent progresses through prayer (DDI III, 12 [h I, 157–58]).

50. "Unde et hanc ecclesiam Christi corpus dicimus mystice quidem, quia non est nisi gratia Jesu Christi explicata" (Kallen, 107); see also *Letter to Arévalo* 2: "Pari passu progredere, affirmando gratiam quae naturae speradditur, ita se ad Christum habere. Nam omnis creatura rationalis, in natura rationali humana, per gratiam in Christo Jesu divinitati hypostatice unita gratiam elevationis ad unionem Dei, quae est ultima felicitas, consequi potest" (ibid., 106). Note that he refers to grace three times in this passage.

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Basel, Cusanus does not forsake his metaphysics of concordance. However, he subsumes it within the metaphysical whole that culminates in the notion of God as the coincidence of opposites (*coincidentia oppositorum*). We also find it changed within the new religious and political contexts of DDI.

The conciliarism of DCC could not have been built without the metaphysics of concordance. We posit that this theory is parallel to the metaphysics of contraction in DDI. Concordance is the harmonious order of diverse and graded parts. In DDI, this idea is expressed in the idea that the universe is contracted maximum that expresses its unity in plurality.[51] The terms *concordantia* and *concordia* are found one several occasions in DDI, first in the same sense as harmony: "For such harmony would draw to itself our soul's reason, because it is all reason, just as infinite light would attract all light, thus freed from the sensible, the soul would not without rapture hear this supremely concordant harmony with the ear of the intellect" (#93).[52] In another passage, he speaks of it as constituting the life and being of creatures: "Since this occurs with delay something is generated out of the concord of elements in relation to what is itself generable, and this endures as long as the concord of the elements, for if their concord is annulled, that which was generated is annulled and dissolved "(#175).[53] This echoes a passage from DCC that reads: "Every living being has been created in harmony" (I, 1, #6 [h XIV, 31]).[54] Within the basic Pseudo-Dionysian background of DCC,[55] we can say that this concordance in creatures is a mark of the divine in them, for he says: "life is everlasting where [there] is no opposition" (ibid.).[56]

Consequently, the constitutive role of concordance for life and being is the same concord necessary for the church to be itself: "Concordance is the principle by which the Catholic Church is in harmony as one and many—in one Lord and many subjects" (I, 1, #4 [h XIV, 29]).[57] DDI echoes this idea of the church as unity of diverse parts in this passage: "Therefore while we journey here on earth, the truth of our faith cannot exist unless in Christ's spirit, remaining in the order

51. DDI, II.

52. "Maxima harmonia . . . quoniam ad se attraheret rationem animae nostrae, cum sit omnis ratio, sicut lux infinita omnem lucem; ita quod anima a sensibilibus absoluta sine raptu ipsam supreme concordantem harmoniam aure intellectus non audiret" (DDI II, 1 [h I, 62]).

53. "Et quando hoc fit cum mora, aliquid generatur ex concordia elementorum ad ipsum generabile durans, quamdiu durat concordia elementorum, qua rupta rumpitur et dissolvitur generatum" (DDI II, 13 [h I, 111]).

54. "omne esse et vivere per concordantiam constitui."

55. For the source of the Neoplatonism in DCC, see Sigmund, *Nicholas of Cusa and Medieval Political Thought,* 119–86.

56. "et ibi aeterna tunc est, ubi nulla contrarietas."

57. "Concordantia enim est id, ratione cuius ecclesia catholica in uno et in pluribus concordat, in uno domino et pluribus subditis."

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of believers, so that in the one Jesus there is diversity in concordance" (#256).[58] Finally, DDI uses concordantia as the unity of diverse parts: "Who would not marvel at this artisan, who in the spheres and stars and the astral regions also employed such skill that although without complete precision, there is harmony of all things as well as diversity" (#178).[59] This can be paralleled to another passage in DCC: "Flowing from one king of peace with infinite concordance, a sweet spiritual harmony of agreement emanates in successive degrees to all its members who are subordinated and united to him" (I, 1, #4 [h XIV, 29]).[60] Although Cusanus here speaks of concordance in the church, it should be remembered that ecclesiastical concordance is a resplendent reflection of the concordance in God: "Behold the ineffable concordance that exists in a God who is threefold and unitary" (I, 1, #6 [h XIV, 31])[61] Senger points to this very text and explains the role of concordantia in showing the continuity of concepts between the two texts.[62] This means that although it was no longer central to the metaphysics of DDI, Cusanus did not abandon the theory of concordance, which was central to his conciliarism.[63]

Nevertheless, we have to qualify this continuity given the fact of the change in the overall context and import of the later text.[64] We have to see the metaphysics of concordance as no longer serving his conciliarism but rather the goal of showing how God as maximum and coincidence of opposites can be known only negatively. Within the purview of the notion of God as maximum unity, we see a development from the view of DCC putting God within a system of concordant relations. As maximum unity, God is no longer part of the concordance of the universe; rather, he is the transcendent enfolding of the contracted unity of the universe. In DDI, the theory of concordance is limited to the relations of contracted beings; while in DCC, the notion of concordant relations is found within

58. "Quapropter veritas fidei nostrae, dum hic peregrinamur, non potest nisi in spiritu Christi subsistere, remanente ordine credentium, ut sit diversitas in concordantia in uno Iesu" (DDI III, 12 [h I, 158]). DCC also emphasizes the primacy of Christ in the life of the church.

59. "Quis non admireretur hunc opificem, qui etiam tali siquidem arte in sphaeris et stellis ac regionibus astrorum usus est, ut sine omni praecisione cum omnium diversitate sit omnium concordantia" (DDI II, 13 [h I, 112]).

60. "Et ab uno infinitae concordantiae rege pacifico fluit illa dulcis concordantialis harmonia spiritualis gradatim et seriatim in cuncta membra subiecta et unita, ut sit unus deus omnia in omnibus."

61. "Ecce inexpressibilem concordantiam in deo trino et uno."

62. Senger, *Die Philosophie des Nikolaus von Kues,* 62, 66, 67.

63. Ibid., 62–63, says: "Konkordanz und ordo bleiben weiterhin bestimmende Themen fast aller späteren Schrifte. Im Schluskapitel des zweiten Buches der Belehrten Unwissenheit finden sie sich ebenso wieder in der Schrift Über die Mutmassungen. In der Spätschrift Über die Jagd nach Weisheit spielt vor allem der ordo-Begriff eine so entscheidende Rolle, dass er als das zehnte Feld der Jagd in drei eigenen Kapiteln behadelt wird."

64. Senger says that although metaphysical elements are found in DCC, it is only in DDI and *On Conjectures* (*De coniecturis*) that these elements become ontological principles.

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the blessed Trinity itself. DDI's notion of God as maximum, wherein all opposites fall within the unity, would not accommodate DCC's notion of God as "unity in trinity, trinity in unity" (I, 1, #6 [h XIV, 31]). In the earlier view, this notion of God is the same concordant relation found in the universe and the church. In the later text, Cusanus no longer views God's unity as meaning the absence of opposition; rather, as maximum unity, he is the coincidence of opposites.[65] It is in this way that divine unity is transcendent and unique from the contracted concordance of the universe.

Conclusion

Considering the obvious differences between DCC and DDI, we might tend more easily to posit a radical discontinuity between these two early major works of Cusanus. This kind of separation is exemplified by reading the work of scholars who have studied DCC, from which one might think that Cusanus was solely a political philosopher; whereas by reading studies of the metaphysical works, one might think Cusanus was a reclusive mystical theologian who had shunned the worldly aspects of the militant church. The truth, as we know, is otherwise. There is only one Cusanus, who was not only a metaphysician but also an ecclesiastic. Stieber has shown that Cusanus exemplified ideological consistency in his decisions not only as papal legate and reformer but also as cardinal and bishop. This means that throughout his life, Cusanus sought concordance between the *vita activa* and the *vita contemplativa*.[66]

We conclude that we can posit not a direct continuity between DCC and DDI, but a break; this discontinuity, however, is not so radical as to constitute a conversion or to give birth to a very different spiritual and intellectual person. Our study gives enough evidence that DDI develops and amends DCC. Despite DDI's seemingly nonpolitical character, Cusanus redefines himself in this work as a papalist. But such redefinition took more than a political form; it was fortified by his religious experience on the return journey from the East and by his assimilation of the thinking of Meister Eckhart, Pseudo-Dionysius, Augustine, Bonaventure, and Thierry of Chartres. Critical to this assertion is the fact that Cusanus lived his life as a metaphysician within his experience of the church and God. Thus, we cannot escape the fact that parallel to his shift from conciliarist to papalist is the maturation of his religious thinking.

65. There is a common misunderstanding that Cusanus thought that the universe is also characterized by the coincidence of opposites. It is clear from the text that this is not the case.

66. Stieber, "The 'Hercules of the Eugenians,'" 254.

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In becoming more than a canonist, he expressed in works not intended primarily for public consumption the intellectual way by which he experienced God. Through learned ignorance, he knew that God cannot be known through the visible signs of the church's laws and sacraments, but must be sought in the continual purification of the intellect. In the same way, he discovered that the life of communion is found not in solidarity with the majority but in the union of one's mind with the unity itself, whose absolute contraction is Jesus. Central to this maturation is the significant experience he had of the Providence, from whom he received the method he had so long sought—that which would enable him to "embrace incomprehensibles incomprehensibly." Nevertheless, even in the later speculative disquisitions, Cusanus retains the idea of concordance that so fascinated him at the start of his metaphysical research. This idea of the harmony of diverse parts that expresses itself in the unequal grades of a hierarchy can be found in his later works, especially in *The Peace of Faith* (*De pace fidei*).[67] Even if the theory of concordance does not change as a concept, it is, however, no longer the same theory, for after DCC, the theory is subsumed in a metaphysical project emanating from religious desire.

What this means is that despite Cusanus's later exclusion of it from his corpus, DCC does belong to the overall metaphysical and theological whole of Cusanus's works. Although not a metaphysical work itself, it contains ideas found in the later writings. And yet its difference from the writings after 1439 also proves that a major change has happened to Cusanus that has influenced not only his career within the church but also the life of his mind. Nevertheless, Cusanus's life shows that the believer's experience of God, although unique and distinct, is inseparable from his life within the *congregatio fidelium.* Medieval metaphysics and speculative theory, contrary to common perception, cannot be separated from religious experience and even the life of the subject in relation to society and politics.

67. E.g.: "et contentatur omnem religionum diversitatem communi omnium hominum consensu in unicam concorditer reduci amplius inviolabilem," *De pace fidei cum epistola ad Ioannem de Segobia,* ed. Raymond Klibansky and Hildebrand Bascour, Medieval and Renaissance Studies, suppl. 3 (London: Warburg Institute, 1956), para. 9.

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PART III Challenges

Introduction

THOMAS M. IZBICKI

The conciliar movement inspired a strong response. The Great Schism (1378–1417) had put the papacy and its apologists on the defensive. Even at the Council of Constance little was said on behalf of papal primacy, except to defend Rome's place in the larger scheme of things against the Lollards and the Hussites. The Council of Basel, however, inspired a papalist reaction by attempting to depose a legitimately elected pope, Eugenius IV. Morimichi Watanabe traces the pope's thorny relations with the Basel assembly. The pope and the council never got along well. Each was convinced of its superiority, and the former refused to let the latter limit his power with its reform decrees. In addition, Eugenius did more than refuse to accept reforms imposed by Basel; he tried to transfer the council to Ferrara to meet there with the Byzantine emperor and the Greek Church. Basel's strong response, which attempted to turn conciliar supremacy into a dogma, contrasted with the short-term success of the Council of Ferrara-Florence in achieving reunion with the churches of the East. (The Greeks and the other Eastern Christian groups were threatened by the advancing power of the Ottoman Turks.) This success was the springboard for a diplomatic campaign that helped Eugenius win back the loyalty of the empire and the other Western powers, although he died before Basel itself had given up its challenge to the power of Rome.

The papacy was in a much different condition a century later. Papal power had been reasserted, and this included a strong role in Italian politics. A reaction against one of the boldest popes, Julius II, led the

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king of France, Louis XII, and others to call a new Council of Pisa. Julius replied by convoking the Fifth Lateran Council. This duel between councils inspired a new round of polemics over supreme power in the church. J. H. Burns examines a little-known papal apologist of this period, Angelo da Vallombrosa. This monk combined a critique of French conciliarism with criticism of a fellow papalist. Angelo thought that Thomas de Vio (Cajetan), the master general of the Dominican Order and one of Luther's earliest opponents, was not strong enough in the cause of Rome. Angelo, like several other papalists, was not an enemy of all councils. He thought the Lateran Council could be useful, and he recommended that the dissidents sitting at Pisa join the legitimate council to work for the church's welfare.

Jesse Mann looks at a conciliar response to a challenge from the papalist camp. He deals with the ecclesiological implications of the belief that only the Virgin Mary had kept the faith at the time of the Crucifixion. This line of thought had been used by William of Ockham to undermine the papacy. John of Segovia, one of the most articulate defenders of the Council of Basel, found papal apologists putting the papacy of his own day in the place of Mary as the faithful witness in a time of turmoil. Segovia answered with a critique of this Marian theme. He thought it undermined trust in the visible church as the vehicle of salvation. (He surely had the Hussites in mind, not just the Eugenians.) The church, in Segovia's theology, necessarily was collegial; and so it could not have been reduced to a single individual, even at the time of Jesus's Passion.

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Pope Eugenius IV, the Conciliar Movement, and the Primacy of Rome

MORIMICHI WATANABE

Concluding his book *Eugenius IV: Pope of Christian Union* (1961), Joseph Gill, the distinguished historian of the Council of Florence, stated:

> Florence had declared that the pope, as successor of St. Peter, is supreme head and authority among men in the Church on earth. Henceforth that is the official, defined doctrine. It will meet with future development and clarification, but the principle was firmly established that the teaching of St. Leo is right and that the Conciliarists were wrong. The Church remained a monarchy. It was not turned into a kind of democracy at a time when democracies were neither known nor valued in any other department of life, and when it would most probably have failed signally within the Church. The Council of Florence, convened and guided by Eugenius IV, was responsible for that and, no matter whether that effect is deemed to have been beneficial or harmful to posterity, that was its most important contribution to history.[1]

John B. Toews, a young historian at the time of his writing on Pope Eugenius IV (r. 1431–47) and the Concordat of Vienna (1448), noted in his able study: "In his struggle with the Council of Basel he [Eugenius IV] had achieved a precise insight into the suicidal nature of conciliarism and

This article is partially based on Morimichi Watanabe, "Pope Eugenius (Eugene) IV (1437–1447)," *American Cusanus Society Newsletter* 20/2 (December 2003): 13–22.

1. Joseph Gill, *Eugenius IV: Pope of Christian Union* (Westminster, Md.: Newman, 1961), 212.

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its ineptitude for definitive action. . . . For Eugenius a Church without papal primacy was inconceivable."[2]

How and why did Eugenius IV become a most persistent papal opponent to the Council of Basel (1431–49) and also to the conciliar movement? Who were his supporters? In this study, we will first examine his life briefly with the above questions in mind and then discuss a few important theological, ecclesiastical, political, and personal factors that affected the course of his activities during the middle of the fifteenth century.

Gabriel Condulmaro (Condulmerio) was born in 1383 of a noble and wealthy family in Venice.[3] He gave away his inherited wealth, some say amounting to 20,000 florins, to the poor and joined the congregation of the canons regular of S. Giorgio in Alga, Venice.[4] At the age of twenty-four, he was appointed bishop of Siena by Pope Gregory XII (r. 1406–15), an uncle on his mother's side, but resigned the bishopric since the people of Siena objected to the rule of an outsider. In 1408 he was created cardinal priest of San Clemente by Pope Gregory XII. After the death of Pope Martin V (r. 1417–31), he was elected pope on the first ballot by fourteen cardinals assembled in the basilica of Santa Maria sopra Minerva in Rome on March 4, 1431, and took the name Eugenius IV. The day after his coronation in St. Peter's on March 11, the new pope issued a bull in which he confirmed an electoral capitulation limiting papal authority that he had signed and the college of cardinals had sworn to before proceeding with the election (and which we will discuss below).[5]

The new pope was handsome, tall, and thin. He was grave and dignified in his bearing, so much so, says Vespasiano da Bisticci (1421–98) in his famous *Memoirs,* that no one could keep eyes fixed on him. In describing Eugenius's manner of life, Vespasiano also tells us that he drank no wine, but only water with sugar and a little cinnamon, and that for his food he was content with one dish, always boiled. He never ate before the appointed hour and greatly relished fruits and veg-

2. John B. Toews. "Pope Eugenius IV and the Concordat of Vienna (1448)—An Interpretation," CH 34 (1965): 178–94, at 179.

3. About the life and background of Gabriel Condulmaro, see A. Chrétien, "Le pape Eugène IV (1431–1447)," *Revue internationale de théologie* 9 (1901): 150–70, 352–67; Gill, *Eugenius IV;* Joseph Gill, *Personalities of the Council of Florence and Other Essays* (Oxford: Blackwell, 1964), especially 35–44. There are short descriptions about him in many reference works. About Pope Eugenius's itinerary, see Hermann Diener and Brigide Schwarz, "Das Itinerar Papst Eugens IV. (1431–1447)," *Quellen und Forschungen aus italienischen Archiven und Bibliotheken* 82 (2002): 193–230.

4. See G. Cracco, "La fondazione dei canonici secolari di S. Giorgio in Alga," *Rivista di storia della Chiesa in Italia* 13 (1959): 70–88.

5. For a discussion of the electoral capitulations, see Hans Erich Feine, *Kirchliche Rechtsgeschichte: Die katholische Kirche,* 4th ed. (Cologne: Böhlau, 1964), 320, 484, 487.

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etables. He willingly granted audiences when his business was done. He also gave alms bountifully and, as a result, was always in debt.[6] The great papalist church historian Ludwig Pastor (1854–1926) wrote: "He parted with money as soon as he received it."[7]

Pope Eugenius IV first moved against his predecessor's family, the Colonna, reputedly because of his dislike of nepotism. We must remember, however, that in his ecclesiastical rise and promotion in the past, he himself was indebted to his uncle Pope Gregory XII. In the very first months of his reign, Eugenius forced the Colonna family to surrender the wealth and territories that Pope Martin V had lavished on them, creating a host of enemies. His initial campaign against the Colonnas was brought to an end in September 1431.

A more difficult, complicated problem Eugenius IV encountered was the Council of Basel. Before his death on February 20, 1431, Pope Martin V convoked the council and named Giuliano Cesarini (1389?–1444), cardinal of Sant' Angelo, as his legate to the council.[8] On July 23, 1431, a general council of the church opened in the Basel Minster with scant attendance. Since Cesarini was still involved in the anti-Hussite campaign, he had the council opened at Basel on July 23, 1431, by his deputies, John of Ragusa, O.P., and John of Palomar. Contrary to the electoral capitulation that he had sworn to observe, Eugenius IV opposed the Council of Basel from the start. Using the sparse attendance as a reason and distrusting the spirit that was reigning at the council, he ordered, in the bull *Quoniam alto,* the dissolution of the council on November 12, 1431, and called for another council to meet at Bologna in eighteen months.[9] This was the beginning of his long struggle with the council, which was destined to trouble his entire pontificate. The step to dissolve the council was seen as an attempt to block any measure of reform and was widely resented and criticized.

The prelates at the Council of Basel refused to disperse. They found support for their decision not only from the University of Paris, but also from the sover-

6. Vespasiano Bisticci, *Renaissance Princes, Popes, and Prelates: The Vespasiano Memoirs, Lives of Illustrious Men of the XVth Century,* trans. William George and Emily Waters (New York: Harper & Row, 1963).

7. Ludwig Pastor, *The History of the Popes from the Close of the Middle Ages,* ed. Frederick Ignatius Antrobus, 6th ed., 40 vols. (London: Routledge & Kegan Paul; repr., Nendeln: Kraus, 1969), 1:285.

8. On Giuliano Cesarini and the Council of Basel, see Pastor, *History of the Popes,* 1:265–68; Joachim W. Stieber, *Pope Eugenius IV, the Council of Basel, and the Secular and Ecclesiastical Authorities in the Empire* (Leiden: Brill, 1978), 1–13; and Gerald Christianson, *Cesarini, the Conciliar Cardinal: The Basel Years, 1431–1438* (St. Ottilien: EOS Verlag, 1979).

9. The text can be found in *Epistolae pontificiae ad concilium Florentinum spectantes,* ed. Georg Hofmann (Rome: Pontificum Institutum Orientalium Studiorum, 1940), 1:21–22, 24–25. See also Loy Bilderback, "Eugene IV and the First Dissolution of the Council of Basle," CH 36 (1967): 243–53; Stieber, *Pope Eugenius IV,* 12; Christianson, *Cesarini,* 31–36.

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eigns of Spain and France, Sigismund, the king of the Romans, and the princes of the empire. On December 14, 1431, at its first public session under the chairmanship of Cesarini, the council reaffirmed the decree *Frequens* of the Council of Constance (1414–18) to justify its existence. Pope Eugenius IV, in turn, ordered the dissolution of the council on December 18 in the definitive version of the bull *Quoniam alto.*[10] On January 13, 1432, Cardinal Cesarini refused to promulgate the pope's order of dissolution. At its session on February 15, 1432, the council reaffirmed the decrees *Haec sancta* and *Frequens* of the Council of Constance, asserted its superiority over the pope, and justified its refusal to accept the pope's dissolution.[11] On April 29, 1432, the council, at its third session, formally summoned the pope and cardinals to appear before it within three months or be punished for contumacy.[12] It should be noted that of the twenty-one cardinals attending the council, only six were on the papal side. The council was supported by the kings of the Romans, France, England, Scotland, and Castile, and the Dukes of Burgundy and Milan. In contrast, the pope could count only Venice and Florence as loyal adherents.

Tension between the council and the pope grew. Eugenius was attacked by troops from Milan and Naples. In addition, the harassed citizens of Rome revolted. As a result, he had to flee from Rome. On the night of June 4, 1432, the pope, in disguise, and a friend boarded a boat, which was anchored at the Ripa Grande; he put his fate in the hands of a strong sailor named Valentino.[13] When the boat passed near St. Paul's, the crowds threw stones and shot arrows at it, but Eugenius lay stretched out on the bottom covered by a shield. Once the boat reached the high seas, Eugenius boarded a ship, from which he disembarked at Pisa a few days later. He reached Florence on June 22, 1432, and took up his residence in the Dominican convent of Santa Maria Novella. Eugenius's flight from Rome marks the nadir of his fortunes. The pope was to stay in Florence until March 7, 1443, altogether over ten years, except that he resided in Bologna from April 22, 1436, to January 23, 1438, at the invitation of the city and in Ferrara from January 27, 1438, to January 16, 1439, during the Council of Ferrara-Florence.

A new schism, which now looked inevitable, was averted thanks to the efforts of Sigismund, who had come to Rome to receive the imperial crown on May 31, 1433, with great ceremony before the high altar of St. Peter's. Sigismund, who had played such an important role at the Council of Constance, now declared himself

10. Bilderback, "Eugene IV," 246; Christianson, *Cesarini,* 36.

11. Stieber, *Pope Eugenius IV,* 14; Christianson, *Cesarini,* 53–54.

12. Uta Fromherz, *Johannes von Segovia als Geschichtsschreiber des Konzils von Basel* (Basel: Helbing & Lichtenhahn, 1960), 157.

13. Gill, *Eugenius IV,* 65–67.

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protector of the Council of Basel.[14] Under much pressure, the pope annulled the bull *Quoniam alto* and recognized the Council of Basel as ecumenical in the bull *Dudum sacrum* of December 15, 1433.[15] It looked as though stability had returned, but Eugenius had other problems. The papal territories were invaded in May 1434 by Francisco Sforza, who later became Duke of Milan (r. 1450–66), and the condottiere Nicholas Fortebracchio, who was in the pay of Filippo Maria Visconti (1402–47), then Duke of Milan. Some of Eugenius's enemies, including the Colonnas, stirred up a popular revolt against him in Rome. Many cardinals fled from Rome as the danger spread.

During the prolonged sojourn of the papal court in Florence, which was the center of the artistic and humanistic movement, it was inevitable that even the ascetic pope came under its influence. The pope helped to hasten the completion of the beautiful cathedral Santa Maria del Fiore, the dome of which had been completed by Filippo Brunelleschi (1377–1446) in 1436. The consecration of the cathedral took place in the same year. Even after returning to Rome in 1443, the pope ordered the bronze doors that still stand at the entrance to St. Peter's. He was also to invite to Rome Donatello (1386–1466), Pisanello (Antonio Pisano, c. 1395–1455), and Fra Angelico (1380–1455). It should be noted that two famous humanists, Poggio Bracciolini (1380–1459) and Flavio Biondo (1392–1463), served as the pope's secretaries for many years.[16]

Another area of Eugenius's activity in Florence was the reform of the church. As Vespasiano described in his *Memoirs,* "[while] His Holiness was residing in Florence, he set himself diligently to reform the Church."[17] The religious houses that Eugenius reformed in Florence were San Marco, the Badia, and the monastery of Santo Salvi of the order of San Giovanni Gualberto. In general, according to Vespasiano, the pope supported the Observants instead of the Conventuals. He was an enthusiastic supporter of the Franciscan Observants and of Bernardino da Siena (1380–1444), the famous preacher. When Bernardino was accused of heresy by the Dominicans and tried, he was finally acquitted by Eugenius IV.[18]

A third area of Eugenius's activities in Florence that is worthy of attention

14. On Sigismund's role, see Otto Schiff, *Sigismunds italienische Politik bis zur Romfahrt (1410–1431)* (Frankfurt: S.N., 1907); August Gottschalk, *Kaiser Sigmund als Vermittler zwischen Papst und Konzil, 1431–34* (Borna-Leipzig: S.N., 1911).

15. Stieber, *Pope Eugenius IV,* 20.

16. On Eugenius IV and the arts and humanism, see A. M. Corbo, "Artisti e artigiani a Rome a tempo di Martino V e Eugenio IV," *Raccolta di fonti per la storia dell'arte* (Rome, 1969), 1:70–73; Eugenio Marino, "Eugenio IV e la storiografia di Flavio Biondo," in "Umanesimo e teologia tra '400 e '500," *Memorie dominicane,* n.s., 4 (1973): 241–87.

17. Vespasiano, *Renaissance Princes,* 17.

18. Ibid., 31.

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briefly is his support of confraternity. In 1435 Ambrose Traversari (c. 1386–1439), Florentine humanist and general of the Camaldolese monks, sent two letters to the pope asking for help and support in the education of future secular and spiritual leaders now in the youth confraternities. As Konrad Eisenbichler has shown, before receiving Traversari's letters, Eugenius had seen the performance of a nativity play staged by the youths of the Arcangelo Raffaello in 1430 and was so impressed that he gave them space for a permanent oratory and meeting rooms near the Ospedale of Santa Maria della Scala. Still residing in Florence, the pope recognized in a bull of June 24, 1442, four youth confraternities—those of the Natività or Arcangelo Raffaello, the Purificazione of San Marco, the Vangelista or San Giovanni Evangelista, and San Niccolò del Campo.[19]

Meanwhile, the Council of Basel, which still sat under the leadership of Louis d'Aleman, cardinal of Arles (r. 1410–50), attempted to confiscate a major source of Eugenius's income. On June 9, 1435, the council decreed the end of annual papal taxes, known as annates, and called for a limitation on the powers of the papacy and the Curia.[20] Critics said that, by abolishing the annates and restricting in every way the papal prerogatives, the council sought to reduce the head of the church to a mere shadow. In reply, the pope published on September 18, 1437, a bull, *Doctoris gentium,* in which he transferred the council to Ferrara.[21] Only one cardinal, a few bishops, and a group of theologians disobeyed the pope and remained at Basel.

Of all the problems that Eugenius IV encountered in his pontificate, it was the controversy over the site of a council of reunion with the Greek Church that really split him and the Council of Basel. A minority of the council, which included Nicholas of Cusa (1401–64), was in favor of any place suited to the pope and the Greeks. The majority, however, insisted that the site be Avignon, Florence, or Basel itself. The formal rupture occurred on May 7, 1437, when the council was divided into two factions, each adopting its own decree convoking a union council with the Greeks. Three leaders of the minority, including Cusanus, left Basel for Bologna on May 20, carrying a copy of the minority decree and President Cesarini's letters to the Eastern emperor and the patriarch of Constantinople. Cardinal

19. Konrad Eisenbichler, *The Boys of the Archangel Raphael: A Youth Confraternity in Florence, 1411–1735* (Toronto: University of Toronto Press, 1998).

20. Joseph Gill, *The Council of Florence* (Cambridge: Cambridge University Press, 1969), 61–73; Stieber, *Pope Eugenius IV,* 24, 32, 370–74; Gerald Christianson, "Annates and Reform at the Council of Basel," in *Reform and Renewal in the Middle Ages and the Renaissance: Studies in Honor of Louis Pascoe, S.J.,* ed. Thomas M. Izbicki and Christopher M. Bellitto (Leiden: Brill, 2000), 198–207.

21. Gill, *The Council of Florence,* 21; Gill, *Eugenius IV,* 95–96, 99, 102, 206.

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Cesarini himself later in 1437 left the Council of Basel and joined the papal side.[22] Pope Eugenius IV confirmed the minority decree in Bologna at the end of May, and the minority delegation set sail for Crete in two groups in July 1437 on their way to Constantinople.

In Ferrara itself the council convened on January 8, 1438, under the leadership of Cardinal Niccolò Albergati (d. 1443). With the financial support of Pope Eugenius IV, the Greek delegation, made up of the Eastern emperor, John VIII Palaeologus, the patriarch of Constantinople, Joseph II, and their suite, about seven hundred in number, had set sail from Constantinople on November 27, 1437, arriving in Venice on February 8, 1438, and then in Ferrara on March 4. As a result, the combined council in Ferrara was solemnly inaugurated on April 9, 1438. Partly because of the emperor's delaying request to get more Western princes to the council and partly because of the Greeks' annoyance with the Latins' tendency to talk endlessly about the thorny issue of the addition of the *Filioque* to the Creed, some Greeks became frustrated, restless, and desirous of going home. The irregularity of the pope's payment to them was another contributing factor.

In January 1439, one year after its opening, the Council of Ferrara was transferred to Florence, presumably due to an outbreak of plague, but really because the commune of Florence and Cosimo de' Medici had offered to accept responsibility for the financial upkeep of the Greeks. The deliberations with the Greeks at Florence focused more on the dogmatic question of the *Filioque* and continued for eight sessions, but reached no resolution. The Greeks were disillusioned, disappointed, and weary after a prolonged stay abroad and anxious to go home. But the emperor implored and urged them to reach an agreement with the Latins. The impasse was finally broken on July 5, 1439, in the famous bull *Laetentur caeli,* signed not only by Pope Eugenius IV, who declared, "I, Eugenius, bishop of the universal church, thus defining, subscribe . . . ," but also by the Greeks. Because of the pope's insistence at the last minute on the primacy of Rome, the following statement had been added at the end of the bull:

> We define that the holy, apostolic See and the Roman Pontiff hold the primacy over the whole world and that the Roman Pontiff himself is the successor of blessed Peter, prince of the Apostles, and that he is the true Vicar of Christ, head of the whole Church and father and teacher of all Christians, and that to the same in blessed Peter was given plenary power of feeding, ruling, and governing the whole Church, as is contained in the acts of the oecumenical councils and the sacred canons.

22. Marino, "Eugenio IV e la storiografia," 241–87; Ioannes Leontiades, "Die griechische Delegation auf dem Konzil von Ferrara-Florenz: Eine prosopographische Skizze," AHC 21 (1989): 353–69.

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The Greeks did not accept the primacy of Rome in the church. Instead, they believed in the theory of the pentarchy—that the five patriarchates of Rome, Constantinople, Alexandria, Antioch, and Jerusalem were essentially equal, except that Rome had predominance in the West and Constantinople in the East. They were no doubt annoyed by the pope's added statement but were probably much more concerned about going home.[23]

On July 6, 1439, the bull *Laetentur caeli* was read out in Latin by Cardinal Cesarini and in Greek by Metropolitan Bessarion of Nicea at the end of the papal Mass in the cathedral of Florence. Eugenius IV, who had worked hard for the union, was elated. He sent out many letters to advise the world of the happy event. (Fedalto has published some of his letters.)[24] But some critics and antiunionists—such as Metropolitan Marcus Eugenicus of Ephesus (c. 1394–1443/45), who throughout the council took a negative standpoint and refused to accept the union, and the Great Ecclesiarch Silvester Syropoulos (c. 1401–c. 1461)—argued that the bull was forced on John VIII Palaeologus because of an imminent attack on Constantinople by the Turks. They even wondered if the Greeks acted in Florence against their faith and conscience in order to obtain assistance from the West in their fear of the Turkish threat.[25] Metropolitan Bessarion had changed his views gradually during the council from the Orthodox to the pro-Western views, but he returned to Constantinople on February 2, 1440. When he learned that he had been created a cardinal by Eugenius IV on December 28, 1439, he returned to Florence on December 20, 1440, and then accompanied Eugenius IV to Rome on September 28, 1443.

Although, as is well known, the Decree of Union, promulgated on July 6, 1439, was eventually rejected by the Greeks, it resulted in a resurgence in the power and prestige of Pope Eugenius IV. Then decrees of reunion were negotiated with the Armenians on November 22, 1439, with the Jacobites in 1443, and with the Nestorians in 1445.[26] On the other hand, the Basel fathers had no doubt been

23. For the text of the bull *Laetentur caeli,* see Gill, *The Council of Florence,* 412–15. Concerning the significance of the theory of the pentarchy, see August Leidl, "Die Primatverhandlungen auf dem Konzil von Florenz als Antwort auf den westlichen Konziliarismus und die östliche Pentarchietheorie," AHC 7 (1975): 272–89; Gill, *The Council of Florence,* 5, 12, 279.

24. Georgius Fedalto, *Acta Eugenii Papae IV (1431–1447) e Vaticanis aliisque registis collegit notisque illustravit* (Rome: Pontificia Commissio Codici Iuris Canonici Orientalis Recognoscendo, 1990), 376–85.

25. About Syropoulos, see Jan-Louis Van Dieten, "Silvester Syropoulos und die Vorgeshichte von Ferrara-Florenz," in Hubert Jedin, "Tridentinum im Carranzaprozess," 9 AHC (1977): 180–89; Deno J. Geneakoplos, "A New Reading of the *Acta,* especially Syropoulos," in *Christian Unity: The Council of Ferrara-Florence, 1438/39–1989,* ed. Giuseppe Alberigo (Leuven: Peeters, 1991), 325–51. There are many studies of Cardinal Bessarion, but see especially John Monfasani, *Byzantine Scholars in Renaissance Italy: Cardinal Bessarion and Other Emigrés: Selected Essays* (Aldershot, U.K.: Ashgate, 1995).

26. About the reunions with the Armenians and the Copts in Egypt (1443), see Georg Hofmann, "Die Einigung der armenischen Kirche mit der Katholischen Kirche auf dem Konzil von Florenz," *Orientalia christiana*

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encouraged by the action of France, which had produced the Pragmatic Sanction of Bourges.[27] Issued by Charles VII of France in 1438, it sharply limited papal authority over the church of France. The remaining members of the council at Basel continued to meet; on June 25, 1439, they deposed Eugenius IV as a heretic and elected Duke Amadeus VIII of Savoy as Felix V (r. 1439–49) on November 5, 1439, thereby starting another schism.[28] Then, in the spring of 1443, Pope Eugenius IV was able to disengage Alfonso V (Alfonso the Magnanimous) (1396–1458) of Aragon from the support of the Council of Basel by recognizing his claim to the throne of Naples.[29] When Alfonso recalled his bishops from the Council of Basel, the council received a heavy blow. On September 28, 1443, Eugenius finally and triumphantly returned to Rome, where he worked hard to help the sad state of the city, attempting to reconcile all the parties of the recent disputes. He also preached a crusade against the Turks, but the crushing defeat at Varna, Bulgaria, in November of 1444 put an end to the campaign.[30]

Toward the end of his life, Eugenius IV was anxious to settle his relations with Germany. The new German king, Frederick III (r. 1440–93), was won over to the papal side not only by the imperial crown, but also by much ecclesiastical patronage. It was much harder to obtain the support of the electors. In the so-called Concordat of the Princes 1447,[31] the pope had to concede, although somewhat vaguely, not only to the reinstatement of the archbishops of Trier and Co-

periodica 5 (1939): 157–86; Hofmann, "Kopten und Äthiopier auf dem Konzil von Florenz," *Orientalia christiana periodica* 8 (1942): 5–29; Enrico Cerulli, "Eugenio IV e gli Etiopi al concilio di Firenze," *Reale Accademia nazionale dei Lincei,* Rendiconti della classe di scienze morali, storiche e filologiche, ser. 5, ix, fasc. 5–6 (Rome, 1933), 347–68. The reunions with the Jacobites and the Nestorians (1444), and the Chaldeans and the Maronites (1448) followed.

27. On the Pragmatic Sanction of Bourges, see Johannes Noldeck Erdmann, *Der Kampf Papst Eugens IV. gegen das Basler Konzil: Seine Bemuhungen um Gewinnung Frankreichs in den Jahren 1438–1444* (Tübingen: S.N., 1957); Gill, *The Council of Florence,* 125, 134–35; Stieber, *Pope Eugenius IV,* 64–71, 149, 160–66, 306–7, 322–30.

28. On the papal deposition and the heretical pope, see Jeffrey A. Mirus, "On the Deposition of the Pope for Heresy," AHP 15 (1975): 231–48; Stieber, *Pope Eugenius IV,* 287, 290, 294; Thomas Prügl, "Der häretische Papst und seine Immunität im Mittelalter," *Münchener Theologische Zeitschrift* 47 (1996): 197–215.

29. See Eduard Preiswerk, *Der Einfluß Aragons auf den Prozeß des Basler Konzils gegen den Papst Eugen IV* (Basel: Basler dr. und Verl.-Anst., 1902); Wilfried Küchler, "Alfons V. von Aragon und das Basler Konzil," in *Spanische Forschungen der Görresgesellschaft,* series 1, Gesammelte Aufsätze zur Kulturgeschichte Spaniens 23 (Münster: Aschendorff, 1967), 131–46.

30. On the Crusade of Varna, see Oskar Halecki, *The Crusade of Varna: A Discussion of Controversial Problems* (New York: Polish Institute of Arts and Sciences in Amerca, 1943); T. V. Tuleja, "Eugenius IV and the Crusade of Varna," *Catholic Historical Review* 35 (1949): 257–73; Domenico Caccomo, "Eugenio IV e la Crociata di Varna," *Società Romana di storia patria: Archivio* 79 (1956): 35–87.

31. On the relationship between Eugenius IV and Germany, see Toews, "Eugenius IV," 178–94; Stieber, *Pope Eugenius IV,* 114–330. About the Concordat of the Princes in 1447, see Stieber, *Pope Eugenius IV,* 276–304. See also Morimichi Watanabe, "Nicholas of Cusa, the Council of Florence, and the *Acceptatio* of Mainz (1439)," in Watanabe, *Concord and Reform: Nicholas of Cusa and Legal and the Political Thought in the Fifteenth Century,* ed. Thomas M. Izbicki and Gerald Christianson (Aldershot, U.K.: Ashgate, 2001), 103–15.

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logne, whom he had deposed on January 24, 1446,[32] but also to the recognition of the Basel reforms and the decrees of Constance and Basel, and the convocation of a "third council."[33] But after a period of German neutrality, he was finally recognized as the only pope by the German king and princes on February 7, 1447. It is important to note in this connection that in a secret adjuration of February 5, 1447, which is sometimes called *Salvatorium,* he had stated characteristically that it was not his intention to diminish the authority of the Holy See.[34]

Eugenius IV died on February 23, 1447. He was first buried next to the tomb of Eugenius III (r. 1145–53) in the Vatican, but his remains were later moved to the monumental tomb erected by the artist Pisanello in the church of San Salvator in Lauro in Rome.

In order to understand and appreciate the activities of Eugenius IV as a strong critic of the conciliar movement and as a tenacious advocate of the primacy of Rome, we shall examine his pontificate in more detail from three points of view: the electoral capitulation of 1431; his attitude toward the Council of Basel and the Greeks; and his advocacy of the Roman primacy, especially in relation to the Greek Church.

The first problem in the pontificate of Eugenius IV that deserves our attention is the electoral capitulation of 1431. At the time of the election of his predecessor, Martin V, the members of the conclave were anxious to limit the power of the next pope. As a result, they put special conditions upon the candidate to be fulfilled by him after his election. When the practice of the electoral capitulation really began and how it was developed are questions that go beyond the scope of this essay. It suffices to say here that a document of a similar nature produced in 1352 before the election of Pope Innocent VI (r. 1352–62) may have been one of the earliest examples.[35] Like the members of the conclave in 1417 who elected Pope Martin V, fourteen cardinals who met in the basilica of Santa Maria sopra Minerva in 1431 were anxious to make sure that the next pope would not be as authoritarian as Martin V and issued the electoral capitulation that they had signed before proceeding with the election. "It demanded not so much a change in the constitution of the Church, as has often been said, as it did an implementation

32. Stieber, *Pope Eugenius IV,* 276–78, 284–85, 287–90.

33. About a "third council," see Remigius Bäumer, "Eugen IV. und der Plan eines 'Dritten Konzils' zur Beilegung des Basler Schismas," in *Reformata Reformanda: Festschrift für Hubert Jedin zum 17. Juni 1965,* ed. Erwin Iserloh and Konrad Repgen (Münster: Aschendorff, 1965), 87–128; Stieber, *Pope Eugenius IV,* 276–91.

34. Paul Haas, "Das Salvatorium Papst Eugen IV. (1431–1447) von 5. Februar 1447," *Zeitschrift der Savigny Schtiftung für Rechtsgeschichte,* Canon Law Series 6 (1916): 293–330.

35. For a discussion of the origins of the electoral capitulation, see Pastor, *History of the Popes,* 1.282–83; and Feine, *Kirchliche Rechtsgeschichte,* 320, 484, 487.

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of the Council of Constance. In it were unequivocally expressed the aspiration of the college of cardinals for a share in the government of the Church," wrote the distinguished church historian Karl August Fink.[36]

According to the electoral capitulation of 1431, the two main limitations to which the future pope was subjected were that he must reform the Roman court "in its head and members" and that he would not transfer the court to another place without the consent of the college of cardinals.[37] Other limitations included a general reform at the general council; the consent of the college of cardinals for a transfer of the Curia; the observance of the rules issued in Constance in regard to the nomination of cardinals; a sharing by the college, in accord with the arrangements of Nicholas IV (r. 1288–92), in the government of the papal states; no proceeding against the power and property of a cardinal without the consent of the majority of the college; and, whenever the formula "with the counsel of our brothers" (*de fratrum nostrum conciliis*) was in a decree, the listing by name of the consenting cardinals. This electoral capitulation was sworn to again by Eugenius after his election.[38]

Despite the limitations imposed by the electoral capitulation of 1431 on the power of the pope, it had little effect on Eugenius IV, who was determined to restore and expand his authority and administration. Like Innocent VI, who, after assenting to the restriction of papal power, repudiated such agreements as invalid, Eugenius IV eventually began to ignore the electoral capitulation in many ways and to adopt a more expansive view of his office. In the bull of appointment for Giuliano Cesarini as president of the Council of Basel, Martin V had listed on February 1, 1431, some of the important tasks of the council: the reform of the clergy and of the entire ecclesiastical estate; the leading back (*reductio*) of the Greek Church and of others to the bosom of the church militant; the preservation of the peace and quiet of the kingdoms of Latin Christendom; and the taking of measures concerning the heresies and errors in Bohemia and elsewhere.[39] Indeed, on March 12, 1431, one day after his coronation, the new pope Eugenius IV confirmed Martin V's bull.

After the official opening of the Council of Basel under John of Ragusa and John of Palomar on July 23, 1431, the council held its first public session on December 14, 1431. But by this time Eugenius's attitude toward the council had be-

36. Karl August Fink, "Eugen IV and the Council of Basel-Ferrara-Florence," in *History of the Church,* ed. Hubert Jedin and John Dolan, vol. 4, *From the High Middle Ages to the Era of the Reformation,* trans. Anselm Biggs (New York: Crossroad, 1980), 473–87, at 473.

37. Raynaldus, *Annales ad annum* 1431, N. 5–7; see Pastor, *History of the Popes,* 1:284.

38. Gill, *Eugenius IV,* 39–40; Stieber, *Pope Eugenius IV,* 10–11n3.

39. Mansi, 29:11–12; Stieber, *Pope Eugenius IV,* 10–11.

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come hardened, and he regarded it as a threat to papal authority. One of the probable reasons for the change was that Eugenius feared that Domenico Capranica (1400–58), who had been excluded from the papal conclave, would use the council as the court of appeal to contest the validity of his election. Another reason was that Eugenius IV was probably displeased with the news that, on October 15, 1431, the council had extended an invitation to the Hussites in Bohemia to come to Basel for discussions and deliberations.[40] Because the council was poorly attended during the year 1431, the pope used it as a reason for dissolution with the bull *Quoniam alto,* which he issued confidentially in its first version on November 12, 1431, and again, in a definite version, on December 18, 1431.[41]

Eugenius's action to dissolve the council and to call another council at Bologna in eight months met with indignation and criticism in all quarters. Cardinal Giuliano Cesarini refused, as seen above, to accept the papal dissolution and wrote a long letter to the pope on January 13, 1432.[42] Meeting with strong opposition from the members of the council, Eugenius IV decided to send an embassy, headed by Giovanni Berardi, archbishop of Taranto, to the Council of Basel. The archbishop arrived at Basel on August 14 and defended the absolute papal monarchy over the church in his speech of August 23, 1432. The council, in turn, issued on September 3, 1432, its bull *Cogitanti,* a carefully argued reply to Berardi's defense of papal absolutism. *Cogitanti* strongly reaffirmed the doctrine of the supreme power of general councils and contested particularly Eugenius's right to decree the dissolution of the council without its consent. When the pope declared the proceedings of the council null and void in the bull *Inscrutabilis divinae providentiae* of August 29, 1433, and in another bull, *In arcano nostrae* of September 13, 1433, they were simply ignored by Basel.[43] It was only through the efforts of the Emperor Sigismund, who was in Rome for his crowning by the pope on May 31, 1433, that a final break between Eugenius and the council was averted.[44]

By the end of 1433, Eugenius IV's position had become untenable. As a result, Eugenius capitulated and was forced to issue on December 15, 1433, the bull *Dudum sacrum,* in which he recognized Basel solemnly as a legitimate general council from its beginning and declared his attempts to dissolve it null and void. He also pronounced his recent bulls, such as *Inscrutabilis divinae providentiae* and *In arcano nostrae,* null and void.[45]

40. Cf. Stieber, *Pope Eugenius IV,* 12–13. For the chronology of the Council of Basel, see Fromherz, *Johannes von Segovia,* 156–72.

41. CB, 1:117–26, 235–330; Fromherz, *Johannes von Segovia,* 157.

42. Stieber, *Pope Eugenius IV,* 13.

43. Ibid., 15–19.

44. Fromherz, *Johannes von Segovia,* 158.

45. Stieber, *Pope Eugenius IV,* 22; Gill, *Eugenius IV,* 54–57.

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In order to strengthen his weakened position vis-à-vis the council, the pope again sent Berardi, archbishop of Taranto, to Basel. For the whole period from December 15, 1435, to September 18, 1437, during which the pope formally recognized the council as legitimate, Berardi was a trusted, energetic representative at Basel, defending the pope's monarchic absolutism.[46] Eugenius and his advisors were not prepared to accept defeat as a result of *Dudum sacrum* and became anxious in 1434 and 1435 to transfer the council to Italy, where they could control its proceedings more easily. It is clear that the worsening struggle between the pope and the council was caused by the pope's rejection of the electoral capitulation and, more broadly, by the widening difference between the pope's monarchist view of his office and the conciliarist ideas of the council fathers.

The tide, however, soon changed when the Greeks sought the negotiation of a union. We must now turn to this second question, of how Eugenius IV dealt with the problem of the union of the Roman and Greek churches.[47] Seeking support and help from the West against the expanding Turks, three delegates sent by the Greek emperor had already come to the Council of Basel on July 12, 1434. At the nineteenth general session of the council on September 7, 1434, many questions, such as the location, time, and financing of a reunion council, were discussed. In his bull *Existimantes olim* of November 15, 1434, the pope accepted the agreement of the council with the Greeks.[48] As a result, by September 1437, Eugenius was ready to take a bold step. In order to facilitate the participation of the Greeks in a new council, he proposed the city of Ferrara as the council's location, as it was easier for them to reach. Advised by Ambrose Traversari, Eugenius dissolved the Council of Basel, as we saw above, and declared its transfer to Ferrara on September 18, 1437, in his bull *Doctoris gentium.*[49] It was through these methods that the pope abandoned any attempt to seek an accommodation with the Council of Basel and began to undermine its authority in an attempt to bring it under papal control.

Even after Nicholas of Cusa and Giuliano Cesarini left the Council of Basel in 1437/38, Aeneas Sylvius Piccolomini (1405–64; later Pope Pius II, r. 1458–64) remained. He expressed criticism of Eugenius's obstinacy and curial greed. In June

46. Stieber, *Pope Eugenius IV,* 21.

47. Emperor John V Palaeologus (1341–91) had already come to Rome in 1369 to seek Western support. Pope Martin V showed great interest in working with the Greeks. Cf. John L. Boojamra, "The Transformation of Conciliar Theory in the Last Century of Byzantium," *St. Vladimir Theological Quarterly* 31 (1987): 215–35; Boojamra, "The Byzantine Notion of the 'Ecumenical Council' in the Fourteenth Century," *Byzantinishe Zeitschrift* 80, 2 (1987): 59–76; Gill, *The Council of Florence.*

48. Fromherz, *Johannes von Segovia,* 166.

49. See note 21. Bilderback, "Eugene IV," emphasized that the pope "dissolved" the council and then transferred it to Ferrara.

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1437, he witnessed the council's deposition of Eugenius. On November 6, 1439, he, as master of ceremonies, had the privilege of announcing the election of Duke Amadeus VIII of Savoy as Felix V. One of the books he wrote during this period was *The Proceedings of the Council of Basel* (*De gestis concilii Basiliensis*), which in book 1 dealt with the final debates leading up to Eugenius's deposition and described in book 2 the election of Felix V. Aeneas's attitude toward the Council of Basel was gradually changing. Looking at the Basileans as "radical, opportunistic riff-raff and their proposals as aberrant, extreme and destructive of the health of the church," he moved from Basel ever closer to Rome.[50] Four months after he was crowned as poet laureate by Emperor Frederick III at the Diet of Frankfurt in July 1442, he left the Council of Basel in the emperor's train and settled to work as an imperial secretary in Wiener Neustadt.[51] As his views changed, he appeared before Pope Eugenius IV and, after offering a confession of his conciliar activities, he received absolution. A few months later, he said to Giovanni Campisio: "O, that I had never seen Basel! . . . I have many reasons to hate [the council] where I spent so much useless time." After making an apparent volte-face and uttering his famous plea, "We recognized our error; we came to Rome; we cast off Basilean doctrine,"[52] Aeneas was now, like others, decidedly a supporter of Eugenian papal absolutism.

Finally, we must consider the concept of Roman primacy that Eugenius IV emphasized especially after the beginning of the Council of Ferrara-Florence. There were two episodes at the beginning of the Council of Ferrara that showed the intricate relations of the two churches. Before arriving at Ferrara, Patriarch Joseph was told that the pope expected him to follow the Latin custom of salutation by kissing the papal foot. Joseph was astonished and utterly refused to accept the suggestion. If the pope insisted, he adamantly declared, he would return to Venice. But the pope reluctantly yielded. Eugenius IV also wanted his throne to be central at one end of the council hall in order to emphasize the primacy of Rome over all Christendom. Since the Greeks did not accept the arrangements,

50. Gerald Christianson, "Aeneas Sylvius Piccolomini and the Historiography of the Council of Basel," in *Ecclesia militans: Studien zur Konzilien- und Reformationsgeschichte Remigius Bäumer zum 70. Geburtstag gewidmet,* ed. Walter Brandmüller, 2 vols. (Paderborn: Schöningh, 1988), 1:161–84. See also Thomas M. Izbicki, "Reject Aeneas! Pius II on the Errors of His Youth," in *Pius II: 'El Più 'Expeditivo Pontifice': Selected Studies on Aeneas Silvius Piccolomini (1405–1464),* ed. Zweder von Martels and Arjo Vanderjagt (Leiden: Brill, 2003), 187–203; and in general *Reject Aeneas, Accept Pius: Selected Letters of Aeneas Sylvius Piccolomini* (*Pope Pius II*), intro. and trans. Thomas M. Izbicki, Gerald Christianson, and Philip Krey (Washington, D.C.: The Catholic University of America Press, 2006).

51. Christianson, "Aeneas Sylvius Piccolomini," 161.

52. *Der Briefwechsel des Eneas Silvius Piccolomini,* vol. 1, Fontes Rerum Austriacarum: Diplomataria et Acta, 2nd ser., vol. 61 (Vienna: Hölder, 1909), 1:538–45; Christianson, "Aeneas Sylvius Piccolomini," 165.

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in the end the gospel was placed at the center, and the Latins—the pope, Roman emperor, cardinals, patriarchs, bishops—had their thrones on one side, and the Greeks—emperor, patriarch, metropolitans—on the other. But the pope's throne was just a little in advance of the others and isolated, and the Greek emperor's was exactly equal to and opposite the throne of the Roman emperor, which was vacant because Sigismund was dead.[53]

In Florence, after the transfer of the council in 1439, all the public sessions were about the doctrine of the procession of the Holy Spirit, the so-called question of the *Filioque,* which the Greeks considered the most important difference between the two churches.[54] After discussing the question of the procession for eight months, the question of the papal primacy was brought in after June 8, 1439. Many of the defenders of the papal primacy were Dominicans, such as John of Torquemada, O.P. (1388–1468), and John of Montenero, O.P. (d. c. 1446). Some were active at the Council of Florence as orators. Torquemada delivered the *Synodal Oration on Primacy* (*Oratio synodalis de primatu*) in 1439 during a debate with Cardinal Cesarini about the power of pope and council. John of Montenero presented the Greeks with a *cedula,* a carefully worded theological statement, about the papal primacy.[55] It read in part as follows, almost in the words of the bull *Laetentur caeli:* "We define that the holy apostolic and Roman Pontiff is the successor of Peter and Vicar of Jesus Christ, head of the whole Church and father of all Christians, our teacher too, and that he holds the primacy over the whole world and that to the same See and Roman Pontiff in St. Peter, the Prince of the Apostles, there was given plenary power of feeding, convening, ruling and governing the whole Church."[56]

After objections were raised by the Greeks against the Latin *cedula,* a revised

53. See Gill, *Eugenius IV,* 237. On the question of papal primacy, see Martin Anton Schmidt, "The Problem of Papal Primacy at the Council of Florence," CH 30 (1961): 35–49.

54. On the Holy Spirit, see Gill, *Council of Florence,* 131–269.

55. Stieber, *Pope Eugenius IV,* 384. About the role of the Dominicans around the time of our discussion, see Thomas M. Izbicki, "The Council of Ferrara-Florence and Dominican Papalism," in Alberigo, *Christian Unity,* 429–43. On John of Torquemada, see Izbicki, *Protector of the Faith: Cardinal Johannes de Turrecremata and the Defense of the Institutional Church* (Washington, D.C.: The Catholic University of America Press, 1981); *Juan de Torquemada: A Disputation on the Authority of Pope and Council,* trans. Thomas M. Izbicki (Oxford: Blackfriars, 1988). On John of Montenero, see M. Mincuzzi, *La dottrina teologica di Giovanni di Montenero, O.P.* (Bari: S.N., 1941) (inaccessible to the author); G. Meersseman, *Giovanni di Montenero, O.P.: Defensore dei mendicanti: Studi e documenti sui concili di Basilea e di Firenze* (Rome: Ads. Sabinae, 1938); Schmidt, "The Problem of Papal Primacy." See also Isnard Wilhelm Frank, *Der antikonziliaristiche Dominikaner Leonhard Huntpichler* (Vienna: S.N., 1976); Thomas Prügl, *Antonio da Cannara: De potestate pape supra concilium generale contra errores Basiliensium: Einleitung, Kommentar und Edition ausgewählter Abschnitte* (Paderborn: Schöningh, 1996).

56. Andreas de Santa Croce, advocatus consistorialis, *Acta latina concilii Florentini,* ed. Georg Hofmann (Rome: Pontificium Institutum Orientalium Studiorum, 1955), 23.

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version was presented by the emperor to Eugenius IV. On Monday, June 22, 1439, the pope's reply was delivered to the Greeks. He insisted on all papal privileges without any limitation.[57] Discussions continued and, as we saw above, the final decree *Laetentur caeli* was signed by Latins and Greeks on July 5 and promulgated in both languages on July 6, 1439. It should be remembered that there was a moment of disagreement about whether the pope or the emperor should sign the decree first and that it was not the emperor, who historically had the right to call the councils, but the pope, who was anxious to maintain the papal primacy, who won and signed the bull first. It is also important to note here again that on June 25, 1439, shortly before the promulgation of the *Laetentur caeli* on July 6, Eugenius IV was deposed by the Council of Basel. Furthermore, on November 5, a few months after the decree was issued, Amadeus of Savoy was elected pope and took the name Felix V. These were certainly unfavorable events for Eugenius IV. But there was no doubt that the union of the Roman and Greek churches was a victory for the pope.

From the time Pope Leo IX (r. 1049–54) and Patriarch Michael Cerularius (d. 1058), under whom the breach between the Western and Eastern churches was actualized in 1054, to the opening of the Council of Florence in 1438, about thirty attempts were made to bring the two churches back together.[58] Of the three occasions that actually declared union, the Council of Florence was the only one that was led by a pope who was anxious to emphasize the Roman primacy. The pope was said to have remarked: "I do not know what more to ask of the Greeks, for what we asked for and sought, we have."[59] It was essentially a leading back (*reductio*) of the Greek Church to the Roman Church, but the union was ephemeral because of a clash of the two different conceptions of the church. Many Greeks were more afraid of the Latinization of their church than the Turkish threat because of Eugenius's forceful way of accomplishing the union and so became hostile to the whole idea.[60]

Most historians and commentators are in agreement that Pope Eugenius IV's personality was admirable. Vespasiano begins his chapter on the pope by saying that he was "a man of the saintliest life and carriage."[61] St. Antoninus (1389–1459), who was appointed archbishop of Florence by Eugenius IV in 1446, wrote in his *Chronicles:* "He was tall of stature, pleasing in appearance and not less so in

57. Gill, *Council of Florence,* 282.

58. Deno J. Geanakoplos, "The Council of Florence (1438–1439) and the Problem of Union between the Greek and Latin Churches," CH 24 (1955): 324–46, at 324.

59. Ibid., 344n90.

60. Ibid., 343n78.

61. Vespasiano, *Renaissance Princes,* 17.

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mind, most bountiful to the poor, generous in gifts for the repair of churches; he cherished God-fearing religious with an affection that was as practical as it was genuine; he was an outstanding promoter of divine worship and the spread of the Christian religion."[62] But the pope's private qualities must be separated, as much as possible, from his attitude toward public policies. The pope's critics often mention his obstinacy, tenacity, and inflexibility. Some spoke of his simplicity of outlook, but what they may have meant was his naiveté, inexperience, or lack of concern for others. In order to protect and preserve the possessions of the church and the power of the pope, he is said to have acted in a straightforward or stubborn way. Aeneas Sylvius wrote: "He tried to achieve not what he could, but what he would."[63] If his tenacity is viewed as tenacity of purpose or fidelity, he was certainly a "simple-minded man." As Gill pointed out, his "chief claim to fame in the Church is perhaps not so much his ardor for Church union as his courage, his indomitable courage, in withstanding the Conciliarists and safeguarding the traditional constitution of the Church."[64] In an age of many general councils, Pope Eugenius IV stood out as an obstacle to conciliarism. He was determined to assert his sovereign authority. It is also remarkable to note that during the reign of this saintly and determined man, "never a year of his pontificate passed that was not mixed by a war in which he was engaged."[65]

It is easy to understand why Eugenius IV thought that he should have remained a monk. As Vespasiano asserted, shortly before his death, the pope said with a sigh: "O Gabriel, how much better for the good of your soul would you have lived, if you had never been either cardinal or pope, but had died as a monk."[66]

62. Gill, *Eugenius IV,* 170.
63. Gill, *The Council of Florence,* 348.
64. Ibid., 44.
65. Gill, *Eugenius IV,* 178.
66. Ibid., 201. Cf. Vespasiano, *Renaissance Princes,* 31, especially n18.

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9

Angelo da Vallombrosa and the Pisan Schism

J. H. BURNS

The Council of Pisa and Milan (1511–12)—small in membership and devoid of significant results—has had what may seem disproportionate scholarly attention. For many at the time it was a mere *conciliabulum;* for the subject of this essay, it was, still more contemptuously, a *conventiculum.* Yet eighty years ago Augustin Renaudet published substantial documentation of "the Gallican Council of Pisa-Milan." Even earlier, Joseph Hergenrother, in his continuation of Hefele's *Konziliengeschichte,* had examined this conciliabulum in some detail.[1] Much of the historical interest in the subject concentrated on its diplomatic aspects; and it is indeed clear that the move by a group of cardinals in spring 1511 to summon a council of the church at Pisa was part of Louis XII's campaign against Julius II and would have been impossible without the French king's support. Again, the relations of both France and the papacy with the emperor Maximilian were an essential part of the context in which the assembly met. It was, of course, recognized that the politics of all this had an ideological dimension. The first volume of *The New Cambridge Modern History,* for instance, included the suggestion that the pamphleteering generated by the conciliabulum constituted "one of the

1. Augustin Renaudet, *Le concile gallican de Pise-Milan* (Paris: Champion, 1922); Carl Joseph von Hefele and Joseph Hergenrother, *Konziliengeschichte,* 9 vols. (Freiburg: Herder, 1873–90), vol. 8 [= Henri Leclercq, *Histoire des conciles,* 11 vols. (Paris: Letouzey et Ané, 1907–52), vol. 7].

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first modern examples of the use of propaganda in politics."[2] That claim, however, was not concerned with the intellectual content or the doctrinal context of what the author called "these innumerable pamphlets": they were considered simply as part of an attempt (largely unsuccessful) to manipulate public opinion.

When the matter was considered in relation, rather, to controversy within the church and concern for ecclesiastical reform, a somewhat different perspective was revealed. Ullmann in 1972 and Thomson in 1980 were concerned, each in his own way, to insist that the 1511 assembly at Pisa was not *merely* a political maneuver in the French monarchy's campaign to secure its position in Italy. Ullmann sought to show that the action of the dissident cardinals in summoning the council was not necessarily schismatic and that there were legitimate ecclesiastical grounds for protesting against papal policies.[3] Thomson argued that "the last serious attempt by a council to proceed against a pope" and "the last great debate about the authority of pope and council before the Reformation" showed that "the issues contested between the papacy and the Councils of Constance and Basel" were still very much alive.[4] And at an earlier date de la Brosse had examined at length the ecclesiological debate "on the eve of the Reformation" in which the Council of Pisa-Milan had played a major part.[5]

Ecclesiology, again, brought the subject close to, if not into, the realm of "political ideas." Already in 1936, when the final volume of the Carlyles' monumental *History* was published, one major figure in the polemics of 1511–12 received substantial attention. A. J. Carlyle remarked that the work of "James Almain of Sens . . . seems to us to have been somewhat overlooked." Half a dozen pages were devoted to Almain's arguments, followed by a briefer account of those of his teacher John Mair—the analyses supported by generous citations from the sources. There was, however, only a passing reference to "the ecclesiastical questions of the relation between the Pope and the General Council," with no mention of Almain's immediate adversary Thomas de Vio (Cajetan). And while Filippo Decio—a key figure, as Ullmann in particular shows—was cited earlier in the volume, it was

2. Roger Aubenas, in *The New Cambridge Modern History,* ed. G. R. Potter (Cambridge: Cambridge University, 1957), 1:83. A detailed history of the "schism" is provided by Nelson H. Minnich, *The Fifth Lateran Council (1512–17): Studies in its Membership, Diplomacy, and Proposals for Reform* (Aldershot: Ashgate, 1994), 99*–102*, 138*–97*.

3. Walter Ullmann, "Julius II and the Schismatic Cardinals," in *Schism, Heresy, and Religious Protest,* Studies in Church History 2 (Cambridge: Cambridge University Press, 1972), 177–92; reprinted in Ullmann, *The Papacy and Political Ideas in the Middle Ages* (London: Variorum, 1976).

4. J. A. F. Thomson, *Popes and Princes, 1417–1517: Politics and Polity in the Late Medieval Church* (London: Allen & Unwin, 1980), 20, 21.

5. Olivier de la Brosse, *Le pape et le concile: La comparaison de leurs pouvoirs à la veille de la Réforme* (Paris: Cerf, 1965). See also Remigius Bäumer, *Nachwirkungen des konziliaren Gedankens in der Theologie und Kanonistk des frühen 16. Jahrhunderts* (Münster: Aschendorff, 1971).

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simply as "a Civilian of the later years of the fifteenth century and the early years of the sixteenth century."[6] Since Carlyle wrote, Almain and Mair, with their ideas set in the proper circumstantial framework, have emerged as substantial figures in the history of early modern political thought.[7]

Other participants in the debates of 1511–12 have also received scholarly attention.[8] And more undoubtedly remains to be said about such figures as Decio and, on the papalist side, Giovanni Francesco Poggio. Another Italian papalist, however, will be considered here—one whose work, despite some specialist attention,[9] has not yet found its place in the general historiography of "the Pisan schism." Angelo da Vallombrosa[10] entered the lists at a very early stage, and his papalism was such as to embroil him not only with the apologists for the Pisan assembly but with Cajetan himself: Angelo, if not *plus papaliste que le pape,* certainly found Julius II's principal defender too moderate in *his* papalism.

Angelo da Vallombrosa had been formed in a school whose pupils usually (though not invariably) emerged as strenuous defenders of papal supremacy—the Curia. Born in Bologna, probably sometime in the third quarter of the fifteenth century, he was for some years an auditor of the Rota; but his later career was monastic—ultimately anchoritic. He made his profession in the Vallombrosan order in 1488, having in the previous year been provided by Innocent VIII to the abbacy of S. Cecilia alla Corvese in Bologna. He seems not to have resided there, however, and it was not until 1496 that he entered the mother house of the order, where he spent the latter half of his life, or more, in Tuscan seclusion: he died at Vallombrosa in 1530. Contemplation, however, plainly did not, for Angelo, entail unawareness of, or indifference to, what we would now call "current affairs." His first foray as a controversialist was prompted by the activities of Savonarola in neighboring Florence; and it is noteworthy that the position he took included support for the Italian policies of Charles VIII of France. It was another matter

6. Robert W. and Alexander J. Carlyle, *A History of Mediaeval Political Theory in the West,* 6 vols. (Edinburgh/London: Blackwood, 1936), 6:241–49; for Decio, see 156.

7. See Quentin Skinner, *The Foundations of Modern Political Thought,* vol. 2 (Cambridge: Cambridge University Press, 1978). As guides, see *The Cambridge History of Political Thought, 1450–1700,* ed. J. H. Burns and Mark Goldie (Cambridge: Cambridge University Press, 1991). For texts see *Conciliarism and Papalism,* ed. J. H. Burns and Thomas M. Izbicki (Cambridge: Cambridge University Press, 1997).

8. See, e.g., J. H. Burns, "Conciliarism, Papalism, and Power," in *The Church and Sovereignty, c. 500–1918: Essays in Honour of Michael Wilks,* ed. Diana Wood, Studies in Church History, subsidia 9 (Oxford: Blackwell, 1991), 409–28.

9. See, especially, Ulrich Horst, *Zwischen Konziliarismus und Reformation: Studien zur Ekklesiologie im Dominikanerorden,* Dissertationes historicae 13 (Rome: Istituto Storico Domenicano, 1985), 23, 53–54, 181–85.

10. This is his most common designation: his surname, sometimes given as Fondi or da Fondi, was more probably Lionara or Leonori.

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when Pisa in turn became the epicenter of tremors in the church, with Charles's successor, Louis XII, as a major seismic force. Now the curialist turned monk was ready and eager to take up his pen on behalf of the papal monarchy he had once served more directly.[11]

Angelo began with his *Oratio . . . pro concilio Lateranensi contra conventiculum Pisanum.*[12] Addressed to Julius II on September 8, 1511, this must be one of the earliest polemical texts provoked by the crisis.[13] Angelo had heard that what he called the *Conciliabulum Pisis* had begun; and indeed, though the first formal session was not to be held until November 1, the opening of the council had been promulgated in the cathedral of Pisa on September 1 by three procurators acting for the dissident cardinals. In mid-July Julius had issued the bull summoning a council to the Lateran for the following April, and Angelo's purpose was to uphold the exclusive legitimacy of that assembly. He wrote, he said, to avoid the charge of sloth or cowardice (*ne ignavia notarer*) and "lest my God be dishonored by the silence or somnolence of the dogs in the city, the suburbs, and the mountains" (*ne obprobrium daretur deo meo: quia canes civitatis, canes suburbani, canes alpestres tacerent dormitarentque*).[14] When rhetoric gave way to argument, the primary target was the claim that emperors or kings could summon church councils. Against this Angelo mobilized both canonistic learning and, for those ignorant of canon law (*qui canones ignorant*), the resources of theology and philosophy.[15] He insists on the liberty of the church, proclaiming that her prelates need not fear royal power (*ab ecclesiarum prælaatis minime Reges timendi sunt*).

The *Oratio,* however, was not merely an attack on a conciliabulum and a defense of a legitimate, papally summoned council. Angelo was also concerned about the reform agenda of the forthcoming Lateran Council, particularly emphasizing two themes. One was the quality of those promoted to the hierarchy—*ne boves in ecclesia subleventur,* their bovine characteristics those of the *rudes ac imper-*

11. For Angelo's career, see especially Ada Alessandri, in DBI, 3:238–40; also Torello Sala, *Dizionario storico biografico di scrittori ed artisti dell' ordine di Vallombrosa,* 2 vols. (Florence: Tipografia dell' Istituto Gualandi Sordomuti, 1929), 1:327–33. For Angelo's role in the Savonarola controversy, see *Angelo da Vallombrosa: Lettere,* ed. Loredana Lunetta (Florence: Olschki, 1997).

12. Twice printed, first at Rome in 1511, second in a collection of mainly pro-papal documents published at Nuremberg in 1512.

13. Cf. Augustin Renaudet, *Préréforme et humanisme à Paris pendant les premières guerres d'Italie, 1494–1517,* 2nd ed. (Paris: Librairie d"Argences, 1953), 544–46. The chronology of the pamphlet literature seems to have been confused by statements in Raynaldus and Mansi. See, for example, de la Brosse, *Pape et concile,* 69.

14. *Oratio,* 1511, sig. a r. The language perhaps implies a rebuke to those nearer the center of affairs for their tardy response to the Pisan challenge.

15. He cites (sig. a iii r) Aquinas, *Summa theologiae* IIa IIae, 1, 10, on the exclusive papal right to summon councils, and (sig. [a v] v) Aristotle, *Nicomachean Ethics* III.1 (1110 a), on acts for which fear of coercion does not afford an excuse.

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iti.[16] Angelo's other special concern was for reform of the religious orders, especially of their excessive multiplicity and divisions. His call for a reduction of the various congregations of Benedictines to a single order under a single prelate was doubtless as unlikely to command cordial support from his monastic brethren elsewhere as his appeal for a new crusade was to rally the princes of Christendom around Pope Julius—warlike as that pontiff notoriously was.

Lateran V, in any case, lay in the future. Pisa, with its pretensions and schismatic potential, was a present reality, and its validity was soon to be vigorously asserted. Zaccaria Ferrerio's *Apologia sacri Pisani concilii,* dated from Borgo San Donnino on September 27, 1511, may (as Renaudet and de la Brosse both suggest) have been written (at least in part) as a response to Angelo's *Oratio.* Ferrerio (1479–1524), abbot of Subasio, has been called "the soul of the assembly" at Pisa; and while this may be even truer of its later stages, he was certainly active from the start. In June of 1511 he had published editions of the *Acta* of the fifteenth-century Councils of Constance and Basel, the former dedicated (on April 2) to the "dissident cardinal" Bernardino López Carvajal. These documents were reprinted in 1512 by Jean Petit in Paris, together with the proceedings of the 1409 Council of Pisa, of the 1423–24 Council of Pavia-Siena, and of the 1511–12 conciliabulum itself. To these were added the text that is immediately relevant here—Ferrerio's 1511 *Apologia.*[17] This has been described as "a work of rhetoric rather than of logic."[18] Rhetoric, however, was an indispensable weapon in this kind of conflict, and it was a weapon Angelo da Vallombrosa himself was more than willing to wield.

Even taking the earlier suggested date for Ferrerio's *Apologia,* it seems unlikely that Angelo could have read it by early October, when he was again busily writing to the pope, to the king of France, and—before either of these—to Cardinal Carvajal himself.[19] The letter to Carvajal is an impassioned plea to the dissident to "restore to us our fellow-citizen, our *confrater,* our teacher—restore to the Roman church such a venerable member." To Louis XII, Angelo insists—citing both

16. Sig. [a v] v—perhaps echoing the proverbial phrase *bovi clitellas imponere* ("to put a packsaddle on an ox")—i.e., to give a task to someone quite unqualified.

17. Renaudet, *Préréforme et humanisme,* 544–5; de la Brosse, *Pape et concile,* 69. For Ferrerio see Eckehart Stöve, in DBI, 46:808–11, where it is stated that the *Apologia* "bears the date" of the first council session at Pisa—November 12, 1511. The earlier date from Borgo San Donnino appears in Melchior Goldast, *Monarchia,* vol. 2 (Frankfurt: Typis Thomae Willerit, 1614), where the text is reprinted on 1653–64.

18. Thomson, *Popes and Princes,* 22.

19. *Epistolæ Angeli Anachoritæ Vallisumbrosæ Iulio II Papæ, Francorumque Regi, Bernandino Tunc Cardinali Sanctæ Crucis, Pro christiana unitate servanda,* The copy used lists no place or date of publication; the title page has a representation "S. Ioannis Gualberti"—the founder of the Valliombrosan order. The letter to Carvajal is dated October 7, 1511; that to Louis XII, October 10; and the two letters to the pope, October 18 and 21. This edition may be that published in Rome by M. Silber in 1511.

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recent and ancient examples—on the pope's paramount authority over emperors and kings.[20]

It was, however, in his letters to Julius II—especially the second letter—that Angelo revealed his awareness of the developing conflict. Before describing a sub-Dantean vision presaging the demise of Carvajal and the collapse of the realm of France, he dealt with more mundane matters. He had heard that "a certain doctor of Pavia and a number of others (*tam Latinos quam barbaros*)" had written against the pope and, to the prejudice of Christian unity, in support of the assembly at Pisa. The reference to "barbarians" is not easily elucidated. Assuming that the "barbarity" is linguistic, Angelo would have had in mind vernacular—perhaps especially French—texts. One target for such strictures may have been the poet Jean Lemaire de Belges (c. 1475–1525), whose *Traicté de la différence des schismes et des conciles* was dedicated to Louis XII in May of 1511 and published soon afterward in Lyon.[21] In any case, Angelo asked Julius to have copies of these writings sent to him so that he might take up the challenge.

Whether or not Ferrerio was among the "others," the identity of the *doctorem paviensem* is not in doubt. Filippo Decio was a key figure in the controversy, especially in its canonistic as distinct from its theological aspect. That distinction may, to be sure, be more a matter of form than of substance: it was certainly impossible for anyone to engage in the argument without extensive reference to canon law, and Ullmann in particular saw the role of the canonists, headed by Decio, as critically important for the Pisan case against Julius. Decio (1454–1535/36) spent most of his career teaching law at Pisa, Siena, Florence, and Padua, though he had (like Angelo) been an auditor of the Rota. By 1511, thanks to Louis XII's patronage, he was professor at Padua (where his own studies had begun); and it was to Decio that the French king turned for legal support of the projected council at Pisa.[22] The response was the *Consilium . . . pro Reverendissimis Cardinalibus editum, qui concilium Pisis indixerunt.*[23] This was published in 1511, but the chronology of its composition and printing is problematic. The text certainly relates to the preparatory phase of the council that was to assemble at Pisa in the autumn, referring

20. The most recent instance—within Angelo's experience, having occurred during his time in the Curia—was Innocent VIII's 1489 deposition of Ferrante, king of Naples; on which see Thomson, *Popes and Princes,* 122–23.

21. See Jennifer Britnell, "The Antipapalism of Jean Lemaire de Belges," *Sixteenth Century Journal* 24 (1993): 783–800.

22. For Decio's career see Aldo Mazzacani, DBI, 33:554–60. His writings are closely examined by Bäumer, *Nachwirkungen des konziliaren Gedankens:* see 36–43, 45–46, 90–92, 253–54.

23. Pavia, 1511; reprinted by Goldast, *Monarchia,* 1667–76. Bäumer (*Nachwirkungen,* 46) refers also to MS. Barb. Lat. 543, fols.30r–42r.

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to the summoning of that assembly on May 16 and to the council of the French church that had opened at Lyon on April 11. The printed text, however, is undated, and Angelo da Vallombrosa had evidently just heard of its publication in late October of 1511. By then its author had joined the intending council fathers at Borgo San Donnino: he was present at the opening session of the Council of Pisa on November 1.

Decio's *Consilium* is certainly the most substantial work written specifically to defend the Council of Pisa. Jacques Almain's *Libellus de auctoritate ecclesiæ* (1512) may claim greater distinction in theoretical analysis; but (like Cajetan, to whom he was replying) Almain displays little concern with the Pisan assembly as such.[24] Decio, on the other hand, states and seeks to resolve problems urgently posed by the developing situation between the spring and autumn of 1511. He faced two crucial questions. First, if the pope were accused of conduct giving scandal to the whole church, could he be held accountable and be judged? Decio's answer was affirmative and he identified a council as the only body competent to pass judgment in such a case. This raised the second question: how could a council be summoned if the pope refused to exercise a power normally his alone? The answer was that the responsibility devolved upon the college of cardinals. In 1511, however, a small minority of that body claimed to exercise the power pertaining to the whole college and to defend this Decio displayed what has been described as "considerable ingenuity."[25] He argued that the supposed deficiency in the pope extended to those who endorsed the papal view, so that the essential authority survived only in the dissenting minority.[26]

This was the case Angelo da Vallombrosa sought to answer in his *Apologeticum,* dated November 22, 1511.[27] There is some uncertainty as to its publishing history. On January 27, 1512, Angelo addressed a letter to "the master of the sacred palace," printed as an appendix to his *Epistola* of February 11.[28] From this it appears that the printing of the *Apologeticum* in November had been blocked in Rome, and the published text bears neither place nor date. One obstacle may have been the scurrilous tone of much of its content, or it may have been thought that Angelo had not been vigorous enough in refuting some of Decio's charges against Julius.

24. See Burns and Izbicki, *Conciliarism and Papalism,* 134–200.

25. Thomson, *Popes and Princes,* 22.

26. *Consilium* (Pavia, 1511), sig. [B 1] r: "quia totum ius collegii in ipsis residere videtur, ex quo alii adherentes pape simul cum papa . . . excluduntur. Nam ius collegii in uno solo conseruari & residere potest."

27. *Apologeticum pro Papa Iulio contra consilium Decii* (n.p., [1511]). There are no signatures and no folio or page numbers. This, too, might be a book attributed to M. Silber, publishing in Rome in 1511.

28. *Epistola . . . contra generalem prædicatorum* (1512), sig. [a 4] v. The *Epistola* itself will be examined later.

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In any case, when doctrinal argument takes the place of mere invective, Angelo cannot be said to cut much of a figure against the skill of his adversary. He cites Aquinas in *De regimine principum*—the passage was in fact written by Ptolemy of Lucca—for a vigorous assertion of the pope's claim to share with Christ the titles of king and priest. These place him—provided he is steadfast in faith (*in fide permanentem*)—beyond the judicial authority of a council unless he submits voluntarily, as he does to the authority of his confessor. Should he lapse from the faith, there is again no place for conciliar judgment since, in accordance with the gospel, "he is condemned already."[29] This, however, (as Cajetan realized) left a procedural hiatus in a situation where procedure was of the essence. Angelo perhaps fares better when dealing with the charge that Julius had broken his promise to summon a council within two years of his election. Aquinas is again called in evidence, this time for the argument that a promise is not binding if the conditions envisaged when it was made no longer prevail.[30] In any case, Angelo argues, now that Julius *had* summoned a council, that summons must prevail over any claims for the assembly at Pisa, thereby making it "null" because it "stood condemned by piety, religion, and the sacred laws."[31]

Decio, citing the maxim *Semel malus semper præsumitur malus,* had argued that Julius's other offenses had deprived him of authority to summon a council. Angelo responded with an impassioned plea to Christ and to Peter to judge their cause: it was their power Decio sought to fetter by his claim that the authority to summon a council had been forfeited to the assembly at Pisa. "Madman!" (Angelo personifies his adversary), "Why do you draw the lifeblood of the Physician?"[32] The Roman church and the see of Peter would be stripped of their rights and privileges. "Gold," Angelo exclaims, abandoning argument for invective, "gold has blinded you, Decio, and with gold you will be choked by the devil in hell!" As for the maxim *Semel malus . . .*, innocence and not guilt is to be presumed in default of proof to the contrary, and that presumption is in the pope's favor. As for Decio's other arguments, they have collapsed (Angelo maintains) with those he has now demolished. He has indeed silenced the ravings of his adversary (*Decii vesaniam efficacissime compressimus*).

This was overconfident, and Angelo seems to have become aware quite soon

29. John 3:18: "qui autem non credit, iam iudicatus est."

30. *Summa theologiae* IIa IIae, 110, 3 ad 3.

31. *Apologeticum,* p. [6]: "Nullum quippe est quod a pietate, a religione sanctisque legibus improbatum est."

32. This seems to be Angelo's meaning when he writes (ibid.), "Insane Deci quamobrem Medici mediam pertundite venam?"—the last three words echoing Juvenal 6.48. For Christ as physician, see Aquinas, *Summa theologiae* IIIa, 68, 4 ad 2: "spiritualis medicus, scilicet Christus."

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of the inadequacy of his polemic. In the third week of December 1511—just over a month after completing the *Apologeticum*—he took up his pen again.[33] He began with a brief and largely rhetorical appeal to the emperor Maximilian to use his authority to end the schism. More substantial arguments were deployed when Angelo went on to address "the prelates of the universal church." Disappointed, he says, in the hope that his *Apologeticum* had disposed decisively of the schismatics' case, he was again "tormented in this flame."[34] He had been challenged to resolve this dilemma: if the pope is guilty of heresy, either he can be judged by a council, which would thus be his superior, or no one can judge him, so that the church must be ruled by a heretic. Predictably, Angelo responds with a firm assertion of the overriding character of papal authority, exemplified in its "everyday" use to dispense from rules prescribed by councils or by "the universal church." Here, strikingly, Angelo set aside historically remote instances in favor of those that were "recent and almost contemporary."[35] Martin V, he claims, abrogated the decrees of the Council of Constance. Eugenius IV transferred the Council of Basel against its will to Ferrara and then to Florence; and finally, after returning to Rome, he renewed his nullification of the assembly at Basel by summoning a general council at the Lateran.[36]

Angelo then turned to the crucial juridical question, insisting on the pope's absolute immunity from human jurisdiction no matter what his alleged offenses may be. God has reserved to himself alone authority to judge one who is uniquely his earthly representative. A council may *proclaim* the pope's heresy and consequential forfeiture of authority, but this procedure is distinct from and subordinate to the supreme power to *judge* in such a case. Angelo does acknowledge that there was a diversity of juristic opinion on this point, and he offers a logical way of resolving these differences. There are, he suggests, two ways of understanding the proposition "The pope can be judged by a council." Taken *in sensu composito,* it is false, because it implies that someone who is pope is at the same time subject to human judgment. Taken *in sensu diviso,* however, the proposition is true, in that the man who is pope might not have held that office and would then have been subject to conciliar authority. On this basis, Angelo concludes, the experts are not after all in disagreement.[37]

33. *Epistola Angeli anachoritæ Vallisumbrosæ Maximiliano Imperatori . . . Altera prælatis universæ ecclesiæ . . . Postera secretariis Sedis Apostolicæ . . .* ([1512]: no date or place of publication). I thank the authorities of the Biblioteca universitaria of Padua for providing a photocopy of this text.

34. "Rursus crucior in hac flamma": cf. Luke 16:24.

35. *Epistola . . . Maximiliano,* sig. a 3 r: "ad noua & quodammodo præsentia facta me conferam."

36. Ibid. The Lateran assembly of 1444–45 was in fact a continuation of the Council of Ferrara-Florence.

37. Sig. a 3 v. For guidance through this intricate passage I am indebted to Professor Alexander Broadie of Glasgow University, but responsibility for the interpretation in the text is of course mine.

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The third and longest of Angelo's "epistles" in December of 1511 was addressed to "the Secretaries of the Apostolic See," who had been attacked by the council at Pisa as responsible for the papal letters denouncing that assembly. They were now to be defended against that attack, and the case Angelo stated followed predictable lines. He acknowledged the right—indeed, the duty—of subjects to resist a ruler seeking to compel sinful actions, but to resist is not to accuse. Again, the fact that the pope should consult the cardinals *in rebus arduis* does not imply that the government of the church combines monarchy and aristocracy, for the pope is not *obliged* to seek, let alone to follow, such advice. It is noteworthy that Angelo's position here is virtually identical with that taken, at much the same time, by the strongly conciliarist theologian John Mair.[38]

Angelo then turned to an argument he had already encountered in Decio's *Consilium,* but that he had dealt with less than adequately in his *Apologeticum.* His adversaries accepted that, normally, the right to summon a general council belonged to the pope, but claimed that there were three exceptions to the rule: the case of urgent necessity affecting the church at large; the case resulting from the pope's failure to keep a sworn promise to summon a council; and the case of a pope guilty of heresy or other scandalous offenses. Angelo denied that there was, under Julius II, any question of necessity or "calamity" affecting the church. He repeated the argument that the obligation of any promise is relaxed if the circumstances in which it was made no longer obtain. And he denied strenuously (*omni conamine*) that there was, in the situation then prevailing, any question of heresy or suspicion of heresy. In any case, he again rejected entirely the argument that the pope can be deprived of his office by any human power. The purported deposition of John XXIII by the Council of Constance was wholly illegal (*ab omni iure deuiauerit*). Only John's abdication effectively ended his claim to the papacy, and his humility was rewarded when Martin V restored him to the college of cardinals. As for the doctrine of conciliar supremacy promulgated at Constance, Martin V had rescinded the relevant decrees and the doctrine had, in any case, never been accepted or upheld by general usage.[39] Conciliar decrees, Angelo claims, had often been adopted from prejudice or for political reasons (*iuxta odium uel fauorem principum*). He illustrates this from the proceedings at Basel in 1438–39, when the council's deposition of Eugenius IV and the election as pope of Amadeus, Duke

38. Sig. [a 4] r. Mair, *Quartus sententiarum* (1509), as cited in J. H. Burns, "*Politica regalis et optima:* The Political Ideas of John Mair," *History of Political Thought* 2 (1989): 31–61, at n29. Mair also explicitly rejected the view of the church as a *politia mixta:* cf. his *In Matthæum* (1518), fol. 71 r; "aliqui dicunt policiam ecclesiasticam esse mixtam, sed non sic dico."

39. Sig. [a 5] r: "Martinus v. . . . omnia illius [concilii] decreta ante eius pontificatum . . . constituta . . . penitus abrogauit. Et si postmodum . . . aliqua comprobauit, illa dicimus comprobantium usui non fuisse admissa."

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of Savoy, were allegedly the results of pressure from Filippo Visconti, Duke of Milan.[40] Councils summoned away from Rome, Angelo concludes, are not to be trusted.

This did not imply hostility to councils as such. Having (as noted above) his own suggestions as to what the Lateran Council might usefully consider, Angelo now insisted, more generally, that if councils fail, the church itself will fail (*Deficientibus nanque conciliis, deficiet & ipsa ecclesia*). As things then stood, however, the need for a council had been met by Julius's summons to the Lateran. The dissidents should abandon their schismatic enterprise and respond to that summons. Julius himself had set an example: in the conclave after the death of Innocent VIII, the election of his rival Rodrigo Borgia as Alexander VI led some of his supporters to urge continued opposition, but he chose to become an exile rather than a focus of schism.[41]

Angelo next had to consider the appeal by the Pisan cardinals to the decree *Frequens,* with its provision for regular (specifically decennial) councils of the church. He responded by invoking the legal argument from desuetude: *sicut consuetudo legem procreat, ita & dissuetudo corrumpit.* For eighty years (reckoning, it seems, from Martin V's convocation of the Council of Basel in 1431), or at least for sixty-six years (since, presumably, Eugenius IV's summons to the Lateran in 1445), that provision had been a dead letter. Even granting what to Angelo was the false assumption that those popes had accepted the authority of *Frequens,* the decree had lost its authority by prolonged neglect, and the pope had regained his earlier, untrammeled right to decide when councils should meet.[42]

There remained the argument that the pope, guilty of disregarding his duty to summon a council at the due date, could not "purge his contempt." Angelo's response was that the pope's absolute power, subject to no human laws and capable of pardoning the offenses of others, was surely available to be used for his own benefit. In any case, if the dissident cardinals believed that in default of papal action it was their right and responsibility to summon a council, why had they not

40. Ibid. There seems to be no specific evidence that Amadeus was his son-in-law's "candidate"; and, in any case, Visconti's willingness to use the council for his own political purposes did not lead to his recognizing Amadeus as pope.

41. Ibid.: "Dixisse fertur, Se prius in perpetuum exilium (quod & fecit) quam scisma in ecclesia dei commissurum." This, needless to say, puts a favorable (and debatable) gloss on the activities of Giuliano della Rovere in the 1490s.

42. Sig. [a 5] v: "Sed dato illos [sc., Martinum & Eugenium] tale decretum conseruasse, datoque etiam concilium ipsum decretorum suorum authoritate ius aliquod hac in re unquam (quod minime crediderim) consequutum, dicimus sua negligentia perdidisse, Romanumque pontificem in antiqua iura restitutum esse, et spatio si non lxxx saltem ab Eugenio citra lxvi annorum numero prescripsisse."

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done so while still in Rome? They had sworn solemnly to act within two years of Julius's election, and six more years had now passed without action on their part. They pleaded fear of the pope in his own city: *Verebamur in urbe pontificem.* Yet their freedom and safety were protected *in legatione germanica.*[43] Meanwhile, they condemned Eugenius IV for his transfer of a council to Rome, whereas both he and Julius (for abrogating the Pisan meeting and summoning the Lateran Council) should be praised for acting to eliminate schism and discord, to foster peace, and to uphold the authority of the Roman church.[44]

This pamphlet was arguably Angelo da Vallombrosa's most substantial contribution to the controversy. Yet he seems to have remained ill content with the reception of his own efforts and the quality of others' attempts to defeat the dissidents. His dissatisfaction with the treatment of his *Apologeticum* in Rome has been noted already. By then (November of 1511)—though Angelo may not have been aware of it until early in the new year—at least one of the *canes civitatis* whose silence Angelo had rebuked in the late summer had begun to bark. Thomas de Vio (Cajetan), master-general of the Dominicans, may indeed have had a hand in drafting the July condemnation of the "Pisan Schism." In any case, he completed by late October and published in early November his *Auctoritas papæ et concilii siue ecclesiæ comparata.*[45] Any satisfaction this may have given Angelo, however, was tempered by what he saw as inadequacies in Cajetan's case. He expressed his concern in his "Epistle against the General of the Order of Preachers,"[46] soon reaching what he saw as the central weakness in Cajetan's position—the acceptance of the claim that the pope was ultimately subject to "a certain ministerial power belonging to the council."[47] The issue here requires clarification. Cajetan had indeed felt obliged to acknowledge that, in certain extreme circumstances, a council representing the whole body of the church possessed and might have to exercise power over the papal head of that body. There could indeed be no question of any "authoritative" power superior to that which was held and exercised by the pope alone. If, however, the pope were suspected of having fallen into heresy, the case

43. A detail not so far confirmed from other sources.

44. Sig. [a 6] r.

45. Translated in Burns and Izbicki, *Conciliarism and Papalism,* 1–133.

46. *Epistola . . . contra generalem ordinis predicatorum supponentem papam ministeriali concilii potestati:* dated February 13, 1512, and addressed to Julius II. Horst (*Zwischen Konziliarismus,* 181–84) reprints the *Epistola,* but not the appended letter of January 27, 1512, referred to above at note 28. The council itself became aware of Cajetan's attack at much the same time and brought it to the attention of the University of Paris. This approach led to Almain's *Libellus:* see the discussion and notes 6–7 above.

47. *Epistola,* sig. A 2 r (Horst, *Zwischen Konziliarismus,* 181): "dum Rom[anum] Antistitem subiecit cuidam ministeriali concill potestati."

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called for judicial determination and, when appropriate, sentence of deposition. This was the "ministerial power" a council might, in the final extremity, have to exercise.[48]

Angelo da Vallombrosa will have none of this. He argues that nowhere in scripture—whether the text is taken literally, figuratively, or in a spiritual sense—is there any basis for subjecting the Roman pontiff to any human authority. Even Aaron, prefiguring the high priesthood of the bishop of Rome, was not stripped of his office for his lapse into idolatry. And this was under the old "law of fear": how much more, under the law of grace, must a merciful God have guaranteed the immunity of the pontiff from human judgment, even if guilty of dereliction of duty.[49] In no respect is the pope subject, either directly or indirectly, to any human judgment or to any human power, whether "authoritative" or "ministerial." As for the standard canon law text in this connection, *Si papa,* Angelo is dismissive: it had become involved in such obscurity that no one properly understood it. Canonists examined the literal text rather than its meaning. "To profess law," Angelo dryly added, "is not to understand it, unless the meaning of law is properly grasped." The only proper understanding of *Si papa* was that which he had expounded in his epistle to the prelates of the universal church—the second item in his late December pamphlet.[50]

In mid-March, evidently now aware of Parisian involvement in the controversy and of Louis XII's intervention, Angelo appealed to the king to "cease his persecution of the pope and the church" and "to destroy the heresy of the University of Paris."[51] With elaborate canon law and scriptural references, Angelo seeks to drive home the message that the pope, whatever his alleged offenses, is not subject to any human judgment. The gospel injunction to cut off a limb or pluck out an eye that causes scandal does not apply to the head. To subject the pope to such penalties would destroy the monarchy of Christ himself. Angelo then develops, perhaps even more emphatically than before, the theme of the pope's absolute power; its supremacy demonstrated by Aquinas (in his *Sentences* commentary) and proclaimed by Martin V with the agreement of the Council of Con-

48. See Cajetan's *Auctoritas . . . comparata,* in Burns and Izbicki, *Conciliarism and Papalism,* 82–93; and see also the introduction, xvii–xviii.

49. *Epistola,* sig. a 2 v (Horst, *Zwischen Konziliarismus,* 183). Angelo adds that these matters have been dealt with more fully "in libris, quos de consumato pectore multo labore confecimus." This work, dedicated to Julius II (cf. note 60 below) has not been located.

50. *Epistola,* sig . . . [a 3] v (Horst, *Zwischen Konziliarismus,* 184).

51. *Exhortatoria ad regem Franciae ut cesset persequi pontificem et ecclesiam.* No place of publication; dated at the end "Idibus Martii. M.D.XII." I am again indebted to the library authorities of the University of Padua for supplying a photocopy of this rare text.

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stance.[52] This is followed by standard references to the pope's possession of both "swords," to Boniface VIII, to the papal deposition of the Frankish *reges inutiles,* to the *translatio imperii,* and to other familiar themes. More interesting, perhaps, is Angelo's list of authorities in support: Albert the Great and Aquinas; Alexander of Hales; Pierre de Tarentaise (Innocent V); Bonaventure; Richard of Middleton; Pierre de la Palu; Augustinus Triumphus; Henry of Ghent; Alexander de Sancto Elpidio; John of Torquemada.[53] To these he adds the jurists Huguccio, Hostiensis, Johannes Andreae, and most recently (*postremo*), Alexandrinus (Giovanni Antonio di San Giorgio).[54]

As for canon law texts seemingly asserting the juridical power of council over pope, Angelo maintains that these refer only to cases where a supposed pope's title to the papacy is doubtful; and it is simply erroneous to say that in such a case the council is passing judgment on "a pope," for until the uncertainty is resolved there is no pope to be judged. Again it is quite wrong to refer to the pope as "the vicar of Peter" and to draw conclusions from that spurious title: it was not for Peter, as vicar of Christ, to establish a vicariate for himself. Considering *Si papa* again, Angelo seeks to clarify the position by insisting that, strictly speaking, it is wrong to refer to a heretic as "pope": he is merely "one who formerly held office as pope" (*qui quondam pontificatum obtinuit*). Heresy entails the immediate forfeiture of that office.[55]

Toward the end of his letter, Angelo directs his fire more specifically ad hominem—or rather *ad regem:*

> If the pope were to be judged by men—the shepherd by his flock—then the king would be exposed to judgment by his subjects; and this is clearly contrary to religion and morality. A further erroneous conclusion would be that all rulers could be deposed and killed by the common people [*a suis plebibus*], as kings could be by their subjects. You harass and disturb the pope with your petty councils [*conciliabulis*] if not with arms: let me tell you that it is not for a good prince or for any king to summon such wretched gatherings [*conuenticula*]. Neither kings nor even emperors have shared or acquired any right to summon a council.[56]

52. Ibid., sig. a 2 v: "Eaque amplitudine [potestas] sibi concessa sit ut ne dum ulla in parte limitationem admittat sed etiam supra se dominium contineat, beato Tho[ma] in quarto di. xix comprobante. Supremam esse in pontifice potestatem Martinus V de consensu constantiensis concilii declarauit. Quam qui denegat hereticus absque mora censendus est."

53. Torquemada is cited again a little further on for the refutation in his *De ecclesia* of the doctrine of the Council of Constance as to cases in which conciliar prevailed over papal authority.

54. There are two further references to Alexandrinus: in the second (sig. [a 4] r) he is described as "nostri temporis canonistarum peritissimus." San Giorgio (d. 1509) would have been Angelo's colleague in the Curia: he was made cardinal by Alexander VI in 1493.

55. *Exhortatoria,* sig. [a 3] v–[a 4] r.

56. Ibid., sig, [a 4] r.

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Angelo ends, however, by protesting his affection for the kings of France, citing his 1496 letter to Charles VIII.[57] If Louis continued to persecute the church, he would be courting inevitable defeat. He should instead submit and form an irresistible alliance with the pope. Otherwise he would incur God's displeasure and the wrath of Peter and Paul, entailing loss of kingship and kingdom in this world and the next.[58]

By then, in the spring of 1512, Louis hardly needed apocalyptic prophecy or canonistic argument to change his policy toward the assembly whose convoking he had promoted. The brief history of the conciliabulum was drawing to a close. Five sessions were held in Milan early in the year, but the council's April "suspension" of Julius was little more than a final defiant gesture. In the same month, in the bull *Salvator dominus noster,* Julius renewed his summons to the Lateran and finally condemned the schismatic cardinals. Louis is said to have regarded the council as, by then, merely "a bad joke."

Yet the demise of the conciliabulum was not the end of the story, even in regard to ecclesiological issues, let alone with respect to the issues of diplomacy and war. In the world of politics, the papacy remained central, and in the church the question of reform retained its urgency. The closing months of Julius II's pontificate (he died on February 25, 1513) were indeed marked by the triumph of his policy of driving the French from Italy. Progress toward that goal, however, was neither smooth nor uninterrupted. One major setback—which alarmed Angelo, among others—was the French victory under Gaston de Foix at Ravenna on April 11, 1512. Nor were the early days of Giovanni de' Medici's pontificate as Leo X marked by political stability. When Louis XII's death on January 1, 1515, brought Francis I to the throne, it was soon clear that French goals in Italy would again be vigorously pursued. By mid-September, Francis's decisive victory at Marignano had set the stage for the diplomacy that would issue in the Concordat of Bologna. King and pope met there in mid-December of 1515, and a preliminary draft was agreed in January. Not until December of 1516, however, was the concordat promulgated, redefining the terms on which French relations with the papacy would thenceforth be conducted.

Those events are the background to the texts Angelo da Vallombrosa published in the autumn of 1516.[59] The first of these is addressed to Leo X; but the

57. This letter has not been located, but there are many references to Charles in Angelo's correspondence in the 1490s: cf. Lunetta, *Angelo da Vallombrosa,* as guide.

58. *Exhortatoria,* sig. [a 4] v.

59. *Epistola Angeli anachoritæ Vallisumbrosæ ad Leonem Papam .X. ad collegium cardinalium. ad Concilium Lateranense. Ad synodos imperpetuum futuros ad prelatos insuper ecclesiarum. Ad doctoresque ac scolares Bononiæ, Parisiis, et per*

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undated *Oratio secunda eiusdem Angeli pro concilio Lateran*[*ensi*]*, contra decium & scismaticos* had plainly been written while Julius II was still alive.[60] In 1516 also the controversy was still very much alive for Angelo—especially in the points at issue between him and Filippo Decio. By then, Decio was perhaps the leading exponent of the conciliarist position, and it was a challenge from him that prompted Angelo to take up the controversy again. Some monks had brought him word that only the pope's military success in driving Louis XII from Milan had prevented Decio's "tearing the miter from [Julius'] head."[61] Having voiced suitable indignation at such impiety, Angelo recapitulated at length the case against Decio's position. Nothing of much substance was added to previous statements, but it is worth noting that Angelo carefully repeated his criticism of Cajetan's anticonciliar argument. He may by then have seen Cajetan's response to Almain,[62] but in any event he adhered absolutely to his own rigorous papalism.

It is noteworthy that, in the peroration of this letter, Angelo made special mention of "the University of Paris" and of "teachers and students everywhere."[63] Seemingly, with the collapse of the conciliabulum as a focus for views he regarded as heretical and subversive, Angelo was all the more concerned about academic threats to orthodoxy. It was in the universities, after all, that such teachers as Decio and, in theology, John Mair could still exert influence that Angelo saw as dangerous. Certainly he must have thought that the restatement of his position in the *Epistola secunda* he published in 1516 was still relevant even if the schism was now deprived of a council to further its "hostile and diabolical" aims. Again challenging Decio, Angelo appealed to the Council of Constance itself as authority for the principle that the Roman church enjoys the full and supreme power conferred by Christ. Only that power, wielded by the pope, could summon a legitimate council—such as was now meeting in the Lateran. To the fathers there Angelo appealed for action to reform clergy and people, and to recover from Islam the eastern realms of Christendom. As for the conciliabulum, its members had

orbem studentes. Contra Decium, & hostes Romani Pontificis: no place or date of publication, but the opening letter to Leo X is dated (sig. a2r) "Idibus Octobris. M.D.XVI." I am indebted to the Biblioteca riccardiana, Florence, for supplying a microfilm of this rare volume.

60. For example, on p. [5] (the text has neither pagination nor signatures), Angelo refers again (see note 49 above) to his *De consummato pectore:* "Vt in libris quos de consumato pectore ad tuam sanctitatem Diue Iuli confecimus"; also (p. [6]): "Cœterum commendo sanctitatæ tuæ Diue Iuli."

61. *Epistola . . . contra Decium,* sig. a 2 r. Reporting Decio's message, Angelo writes: "Dicite . . . Anachoritæ . . . ni Francorum Rex fuisset deperditus Mediolensem urbem . . . mitram omnino e capite illius mea doctrina rapuissem."

62. *Apologia de comparata auctoritate papæ et concilii:* see Burns and Izbicki, *Conciliarism and Papalism,* 201–84.

63. "Studium Parisinum hoc teneat. Doctores ubique doceant. Scolares uero passim discant" (*Epistola . . . contra Decium,* sig. a 5 r).

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been ignominiously expelled from Pisa, from Milan, from Vercelli—indeed, from all Italy (*ab omni Hesperia fugatos & turpissime eiectos*). True, there had been the disaster at Ravenna and the resulting fear lest Julius be captured and perhaps killed, and the patrimony of St. Peter taken and despoiled by the French. Providentially, such disasters had been averted: the French had been expelled from Emilia, from Liguria, from all Italy beyond the Po.[64] In his enthusiasm Angelo invokes Petrarch: "So with the Tuscan poet we may sing, *The vanquished himself boasts of his conqueror.*"[65] The brief remainder of the *Oratio* is given over to prophetic rhapsody in which Angelo casts himself as the angelic precursor of the papal army marching to overthrow the "Babylonian city" of Islam.

Of greater interest than such fantasies are the two brief exhortations Angelo appended to the main texts published in 1516. In one, he briefly addressed Cardinal Giulio de' Medici, archbishop of Florence, Leo X's cousin, and later himself pope as Clement VII. It urges the cardinal to ensure that the "false dogma" of conciliar supremacy over the pope is duly condemned by the Lateran Council. Of greater interest is the longer "exhortation" addressed to Francis I. Writing a few months before the rapprochement between France and the papacy was sealed at Bologna, Angelo necessarily treated the king as an ally rather than an enemy. Accordingly, he praised Francis for allying himself with Leo and for having "killed schism and heresy" in his realm. More remains to be done, however: the king "must destroy and eradicate from the University of Paris and from the realm the error and heresy by which a great many teachers and learned men have been entrapped." Nor does Angelo leave the king in any doubt as to the nature of the "poisonous doctrine" he has in mind: it is, of course, the doctrine that would subject the pope to the authority of a council.[66]

Angelo's preoccupation at this stage with the University of Paris is noteworthy. He may or may not have known that Francis had already, in January of 1516, sought to facilitate negotiations with the papacy by instructing the Paris theology faculty to drop its investigation of Cajetan (made cardinal by Leo in the following year).[67] In any case, he might have suspected—quite correctly—that the theolo-

64. Swiss forces took Milan in May of 1512. The council withdrew to Vercelli and finally to Lyon, where its by then vestigial existence ended.

65. *Oratio secunda eiusdem Angeli pro concilio Lateran[ensi] contra Decium et scismaticos* (8 pp., seemingly without signatures, printed with *Epistola . . . contra Decium;* undated), p. [7]: "Ita ut cum poeta ethrusco decantare possimus. Del suo uincitore se ne gloria el uincto." Line (*Trionfi* 1:93) should read, "che del suo vincitor sia gloria il vitto." I am indebted to Professor Patrick Boyde for elucidating this reference.

66. "Teque multis precibus . . . rogatum facio, ut sicut pestiferuum scismatis dogma ab ecclesia supplantasti, ita & a studio Parisiano atque regno tuo . . . euellas errorem atque heresim qua plurimi doctores ac sapientes tui imperii detenti sunt. Videlicet Papam Concilio subiectum esse."

67. De la Brosse, *Pape et concile,* 72.

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gians of Paris were unlikely to maintain "perpetual silence" on such matters. In any event, neither they nor the Parlement of Paris found the Concordat of Bologna easy to accept, and John Mair was free to publish in 1518 his own conciliarist refutation of Cajetan's position.[68] By then, so far as we know, Angelo da Vallombrosa had withdrawn from controversy to devote himself to contemplation during the dozen years he had left. By then, too, Martin Luther had inaugurated a greater challenge to the papacy and its authority than even the most radical conciliarists had posed. That did not mean, nor does it mean in historical perspective, that the issues with which Angelo was concerned had lost their importance. In the context of the Counter-Reformation, however, both papalism and conciliarism survived in profoundly different circumstances.

68. For which see Burns and Izbicki, *Conciliarism and Papalism,* 285–311.

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10

A Conciliarist's Opposition to a Popular Marian Devotion

JESSE D. MANN

Few ideas are as closely associated with the fourteenth-century English Franciscan William of Ockham (d. 1347) as the notion that "the faith did not remain solely with the Virgin" (*Non in sola Virgine tunc remansit fides*) or that the true church could subsist in a single person.[1] This view, sometimes referred to as "remnant ecclesiology"[2] and occasionally seen as a consequence of Ockham's nominalism,[3] occurs repeatedly in the

1. See Jürgen Miethke, "Repräsentation und Delegation in den politischen Schriften Wilhelms von Ockham," in *Der Begriff der Repraesentatio im Mittelalter: Stellvertretung, Symbol, Zeichen, Bild,* ed. Albert Zimmermann, Miscellanea mediaevalia 8 (Berlin: De Gruyter, 1971), 163–85, at 172; Brian Tierney, *Origins of Papal Infallibility, 1150–1350: A Study of the Concepts of Infallibility, Sovereignty, and Tradition in the Middle Ages* (Leiden: Brill, 1972), 232n1 (citing examples from several of Ockham's works); Arthur S. McGrade, *The Political Thought of William of Ockham: Personal and Institutional Principles* (London: Cambridge University Press, 1974), 48; and John J. Ryan, *The Nature, Structure, and Function of the Church in William of Ockham* (Missoula, Mont.: Scholars, 1979), 38.

2. See, for example, Scott H. Hendrix, "In Quest of the *Vera Ecclesia:* The Crises of Late Medieval Ecclesiology," *Viator* 7 (1976): 360–63. Remnant ecclesiology implies that the true church, as opposed to the visible, institutional church, exists in a small, perhaps hidden or even persecuted minority.

3. See Karl Binder, "Thesis in passione Domini fidem ecclesiae in Beatissma Virgina sola remansisse iuxta doctrinam medii aevi et recentioris aetatis," in *Maria et ecclesia: Acta congressus Mariologici-Mariani in civitate Lourdes anno 1958 celebrati,* vol. 3, *De parallelismo Mariam inter et ecclesiam* (Rome: Academia Mariana Internazionale, 1959), 389–488, at 434; and Yves Congar, "Incidence ecclésiologique d'un thème de dévotion mariale," *Mélanges de science religieuse* 7 (1950): 277–92, at 288. This interpretation has been criticized by Miethke, "Repräsentation und Delegation," 172; and Hendrix, "In Quest," 361. Ernest A. Moody has defined Ockham's nominalism as consisting "in his refusal to construe abstract terms as names of entities distinct from the individual things signified by absolute terms"; see *Encyclopedia of Philosophy,* reprint ed. (New York: Macmillan, 1972), s.v. "William of Ockham."

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friar's writings, most notably in his influential *Dialogus.*[4] At least two times in that lengthy work, Ockham linked his "remnant ecclesiology" to a specific instance of popular Marian devotion. For example, in *Dialogus* 1.2.25, he wrote, "They say that if only one should dissent, then such a truth should not be accepted, because the entire faith of the church can exist in one individual, just as the entire faith of the church remained solely in the Blessed Virgin at the time of Christ's passion."[5] And, again in *Dialogus* 1.5.23, "some say that the faith of the church could remain even in the laity; indeed certain ones say that it could even be preserved in women, just as it was preserved solely in Christ's mother at the time of his passion."[6]

Of course, as these examples themselves suggest, the idea that Mary alone preserved the faith during Christ's Passion clearly antedated Ockham and the fourteenth century. According to Karl Binder, this tradition grew out of the parallel between Mary and Eve drawn by patristic authors such as Justin Martyr, Irenaeus, Tertullian, Ambrose, and Augustine.[7] For just as Eve was instrumental in humanity's fall, Mary, the model of faith,[8] was instrumental in humanity's redemption; and just as Eve was the mother of all, Mary was the mother of all Christians. Relatedly, many of these same patristic authors also drew a parallel between Mary and the church.[9] Ambrose, for example, not only saw in Mary a "type" of the church (*typus ecclesiae*), but also identified her faith with that of the church itself.[10] Similar notions can be found in Augustine[11] and in the Greek fathers, as well.[12]

4. For a concise treatment of the dating and genesis of Ockham's *Dialogus,* see *Dialogus: Auszüge zur politischen Theorie,* ed. Jürgen Miethke (Darmstadt: Wissenschaftliche Buchgesellschaft, 1992), 225–29.

5. Guillelmus de Occam, *Opera plurima: Dialogus de imperio et pontificia potestate* (Lyon: Johannes Trechsel, 1494; repr., London: Gregg, 1962), fol. 14vb: "Dicunt quod si unus solus dissentiret non esse talis veritas acceptanda quia in uno solo potest stare tota fides ecclesiae quemadmodum tempore mortis Christi tota fides ecclesiae in sola beata Virgine remanebat."

6. Ibid., 1.5.23 (fol. 44vb): "dicunt nonnulli quod fides ecclesiae posset in puris laicis remanere imo dicunt quidam posse salvari in mulieribus quemadmodum tempore passionis Christi salvata fuit in sola matre Christi."

7. Binder, "Thesis in passione," 390–97. For more on the parallel between Eve and Mary, see Jaroslav Pelikan, *Mary through the Centuries: Her Place in the History of Culture* (New Haven: Yale University Press, 1996), 39–52. It should be noted that Werner Krämer cited Cyprian's *Epistula* 66 as a source for the in sola Virgine theme; see Krämer, *Konsens und Rezeption: Verfassungsprinzipien der Kirche im Basler Konziliarismus* (Münster: Aschendorff, 1980), 231n60. However, Binder makes no mention of Cyprian in his detailed study of this subject; and indeed, while the passage in Cyprian cited by Krämer may be related to the creation of a "sectarian" mentality, it has little to do with the specifically Marian theme. Perhaps the most relevant line from *Epist.* 66 reads: "even if the proud and stubborn crowd of those not wanting to obey should fall away, still the church will not forsake Christ" (*etsi contumax ac superba obaudire nolentium multitudo discedat, ecclesia tamen a Christo non recedit*).

8. On Mary as model of faith, see Pelikan, *Mary,* 153.

9. On this theme, see Alois Müller, *Ecclesia—Maria: Die Einheit Marias und der Kirche,* 2nd ed. (Freiburg: Universitätsverlag, 1955).

10. See Binder, "Thesis in passione," 394–95.

11. Ibid., 395–96.

12. Ibid., 392.

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Such parallels highlight the uniqueness and archetypal role of Mary and her faith,[13] but do not in themselves fully explain the belief that Mary alone remained faithful during the Passion. What, one may ask, of the apostles? As Yves Congar has noted, by the twelfth century the theme of the apostles' loss of faith was quite common.[14] Indeed, well before the twelfth century both Ambrose and Augustine had asserted that all the apostles, including Peter, had deserted Jesus—and by extension had lost their faith—at the time of the Crucifixion.[15] These two elements, the steadfastness of Mary's faith and the defection of the apostles, were thus well established in the patristic period but, as Binder has pointed out, they did not at that time lead to the explicit formulation that Mary alone safeguarded the faith during the Passion.[16]

Odo of Ourscamp (d. 1171) seems to have been the first to combine these elements expressly. In his *Quaestiones* (c. 1160), Odo wrote, "shaken by the passion, Mary Magdelene, along with the disciples, lost her faith; [and] we believe that the Lord's mother alone was immune from their incredulity."[17] Subsequent authors such as Phillip the Chancellor (d. 1236) and Caesarius of Heisterbach (d. 1240) stated the "in the virgin alone" (*in sola Virgine*) theme even more explicitly and also added several new elements to the tradition. To wit, in his *Summa de bono,* Phillip wrote: "thus they say that the church existed solely in the Virgin whose faith endured during the Passion; and it is for this reason, they say, that she is commemorated on Saturday."[18] Likewise, Caesarius noted in his *Exposiuncula cum addimento* that "Saturday is rightly specially dedicated to her and designated for her veneration [for] the immoveable pillar of the catholic faith remained in her alone. . . . In that time [i.e., during Christ's Passion] the Virgin alone stayed firm in the faith, indeed she alone was then the church."[19]

13. It should be noted that not all patristic authors shared this view of Mary's faith during the passion. Origen (d. 253/54), among others, argued that Mary also vacillated after the Crucifixion. See Binder, "Thesis in passione," 399–401.

14. See Congar, "Incidence ecclésiologique," 282n1: "Le thème de la défaillance des apôtres devait être assez courant."

15. See Binder, "Thesis in passione," 395–97. Binder cites numerous examples from subsequent authors as well.

16. Ibid., 398: "Conspectu antecedente, qui multis aliis testimoniis augeri posset, docemur, thesim nostram tempore patristico ad verbum a nullo scriptore defensam esse."

17. Odo Ursi Campi, *Quaestiones,* pars 2, q. 56: "passione turbata hanc fidem amisit, etiam cum discipulis; cuius infidelitatis matrem Domini solam immunem credimus." Cited by Binder, "Thesis in passione," 416. See also Congar, "Incidence ecclésiologique," 281.

18. Philippus Cancellarius, *Summa de bono* q. de art. symb. a. 11: "Unde dicunt, quod in sola Virgine stetit ecclesia, cuius fides sola permansit in passione: propter quod dicunt, eius memoriam in sabbato fieri," cited by Binder, "Thesis in passione," 418. See also Congar, "Incidence ecclésiologique," 279–81.

19. Caesarius Heisterbacensis, *Exposiuncula cum additamento:* "Ipsa quippe dies sabbati merito specialiter ei est dedicata et eius veneratione deputata, in qua ipsa sola perstitit fidei catholice inmobilis columna. . . . Quo

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These texts call attention to the connection—common by the thirteenth century—between the "in the virgin alone" theme and the similarly common theme of Saturday as the day uniquely dedicated to the veneration of Mary.[20] In so doing, they indicate that the "in the virgin alone" theme was not only a devotional tradition, but a liturgical one as well. An important statement of this liturgical tradition is found in William Durand the Elder's *Rationale divinorum officiorum* (composed 1286–91), in which the author discusses the significance of the candles in the Tenebrae liturgy.[21] In that service, according to one practice reported by Durand, a series of candles placed before the altar was extinguished one by one except for the candle in the middle of the "hearse."[22] This candle was then hidden and only subsequently brought back to illuminate the otherwise benighted church. According to Durand, this single candle signified, among other things, "the faith which remained solely in the Virgin by whom all the faithful were later instructed and enlightened."[23] As we shall see, the association of the in sola Virgine theme with the Tenebrae liturgy was long-lived.

In addition to the devotional and liturgical aspects, the in sola Virgine theme also had a legal or juridical aspect. For example, Jürgen Miethke has argued that Ockham's use of this theme reflects developments in English law such as the "corporation sole."[24] Conrad of Gelnhausen (d. 1390) linked the Marian theme with the *ius universitatis.*[25] Most explicitly, as Brian Tierney has noted, the idea that

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tempore Virgo in fide sola solidata perseveravit, immo ipsa sola tunc ecclesia fuit," cited by Binder, "Thesis in passione," 419.

20. On Saturday as Mary's day, see Louis Gougaud, *Devotions et pratiques ascétiques du Moyen-Age* (Paris: Desclée de Brouwer, 1925), 65–73; and Hilda Graef, *Mary: A History of Doctrine and Devotion,* 2 vols. (New York: Sheed & Ward, 1963–65), 1:208.

21. See Guillelmus Durantis, *Rationale divinorum officiorum* 6.72.15–25, ed. Anselme Davril and Timothy M. Thibodeau (CCCM, 140A; 1998), 341–44. Tenebrae (darkness) is the popular name for the special form of matins and lauds provided for the last three days of Holy Week. For more on this subject, see *New Catholic Encyclopedia,* 2nd ed., 15 vols. (Washington, D.C.: The Catholic University of America Press), s.v. *"Tenebrae,"* by D. Stevens. On the Tenebrae liturgy in Durand's work, see Binder, "Thesis in passione," 426–27; and Congar, "Incidence ecclésiologique," 277.

22. "Hearse" here refers to a triangular frame on a stand, usually holding fifteen candles. Significantly, as Durand recorded (*Rationale* 6.72.15), the number of candles used in the Tenebrae liturgy varied in the thirteenth century: "Circa quod advertendum est quod quidam accendunt septuaginta duas candelas, quidam viginti quatuor, quidam quindecim, quidam duodecim, quidam novem, quidam septem, et secundum quosdam non est numerus certus" (CCCM, 140A:341). See also Binder, "Thesis in passione," 426.

23. See Durand, *Rationale* 6.72.25 (CCCM, 140A:343): "Nempe candela ipsa seu eius lumen occultatum significat primo fidem que in sola Virgine remansit, per quam postea omnes fideles docti et illuminati."

24. See Miethke, "Repräsentation und Delegation," 172. On the notion of "corporation sole," see Ernst H. Kantorowicz, *The King's Two Bodies: A Study in Medieval Political Theology* (Princeton: Princeton University Press, 1957), 3–6, 383–84, 446–49.

25. See Brian Tierney, *Foundations of the Conciliar Theory: The Contribution of the Medieval Canonists from Gratian to the Great Schism,* rev. ed. (Leiden: Brill, 1998), 185n14: "Another extreme example is provided by Conrad of Gelnhausen who referred to the belief that the true faith survived only in Mary at the hour of the Crucifix-

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Mary alone preserved the faith appeared in medieval canon law, notably in the early-thirteenth-century gloss *Ecce Vicit Leo.*[26] According to Tierney, "the interesting feature of this gloss is that the Marian doctrine was not employed, as was usual, in a devotional sense, but in the precise manner of the more radical fourteenth century Conciliarists, as an argument to demonstrate the defectability of the Pope and the Roman Church."[27]

Thus, we come back to William of Ockham and to that aspect of the in sola Virgine theme that most directly concerns us here, namely, its ecclesiological implications. As Congar, the first scholar to call attention to these implications, observed, "The theme of Mary alone having preserved the faith and containing within herself the entire church enjoyed great success in the fourteenth and fifteenth centuries. . . . In the fifteenth century it appeared occasionally as a purely devotional theme . . . but more frequently, it had immediate ecclesiological consequences."[28] These consequences or implications can be arranged into three main ecclesiological positions, two of which endorsed the in sola Virgine theme and one which opposed it.[29]

The first position, associated with "remnant ecclesiology," has already been alluded to. Proponents of this position, such as Ockham and to some extent Conrad of Gelnhausen and Nicholas of Clamanges (d. 1437),[30] employed the in sola Virgine theme to question and criticize the hierarchical and institutional church, and above all the papacy, of their day. Rather than attribute infallibility to a visible organ or office (be it the papacy or a general council) within the institutional church, the more radical advocates of this position shifted the very criterion for interpreting scripture and for judging theological pronouncements from any type of ecclesiastical authority to correct understanding.[31] The Mary of the in sola Vir-

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ion—and then adduced in support of this assertion the legal doctrine that the rights of a corporation could be retained by one surviving member." The renowned lawyer Nicholas de Tudeschis (d. 1453), known as Panormitanus, also associated the idea of remnant ecclesiology with the *ius universitatis;* see Hermann Schüssler, *Der Primat der heiligen Schrift als theologisches und kanonistisches Problem im Spätmittelalter* (Wiesbaden: Steiner, 1977), 179; and Hendrix, "In Quest," 363n69.

26. See Tierney, *Foundations,* 39nn52–53. The gloss *Ecce Vicit Leo* was an apparatus of glosses on Gratian's *Decretum* produced between 1202 and 1210; see ibid., 236. For additional examples, see Tierney, *Origins,* 36n1.

27. Tierney, *Foundations,* 40.

28. Congar, "Incidence ecclésiologique," 283–84: "Le thème de Marie ayant seule gardé la foi et contenant en elle toute l'Église a connu un assez grand succès aux XIV^{e} et XV^{e}siècles. . . . Au XVe s., notre thème se présente parfois comme un pur thème de piété . . . mais il a le plus souvent une incidence ecclésiologique."

29. It should be noted that, while the three positions outlined below are distinguishable in the late medieval period, they no longer obtain in the same way in the changed theological landscape of the sixteenth century and beyond.

30. On Gelnhausen and Clémanges, see Congar, "Incidence ecclésiologique," 286–88; and Binder, "Thesis in passione," 435–37.

31. See Hendrix, "In Quest," 362. As Ockham put it the prologue to his *Dialogus* (fol. 1r), the fundamental issue became "what was said" rather than "who said it." On this distinction, see Brian Tierney, "Only the Truth

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gine theme thus became a model of the faithful individual standing in opposition to the apostate institution. In the fifteenth century, the Czech reformer John Hus and his followers were among the principal proponents of such a view,[32] as were the Protestant reformers of the sixteenth century. However, neither group of reformers seems to have drawn explicitly upon the in sola Virgine theme.[33]

Obviously, advocates of this first ecclesiological position endorsed the in sola Virgine theme. Perhaps surprisingly, however, so too did some staunch supporters of the papacy and institutional church, such as Henry Kalteisen (d. 1465)[34] and most notably John of Torquemada (d. 1468). The latter argued that in some instances a single individual, namely, the pope, could maintain the faith against a multitude of others. In his *Summa de ecclesia* 3.64, Torquemada concluded that while the judgment of a general council regarding a matter of faith is normally to be preferred to the judgment of the Roman pontiff by himself, still it might happen that a single person, especially the pope, might opine more correctly on a matter of faith than all others, just as, according to the common teaching, Mary alone preserved the catholic faith and the holiness of the church during the Passion.[35] One is reminded here of the many claims advanced by medieval papal apologists, such as the assertions included in medieval canon law literature, that the pope "held all the laws in his breast"[36] or that Peter, the prototypical pope, "signified" the church and that "in his faith was understood the faith of the en-

Has Authority: The Problem of 'Reception' in the Decretists and Johannes de Turrecremata," in *Law, Church, and Society: Essays in Honor of Stephan Kuttner,* ed. Kenneth Pennington and Robert Somerville (Philadelphia: University of Pennsylvania Press, 1977), 69–96.

32. On Hus in relation to our theme, see Johannes Helmrath, *Das Basler Konzil: Forschungstand und Probleme, 1431–1449* (Cologne: Böhlau, 1987), 368: "Der hussitische Kirchenbegriff fusst bekanntlich im wesentlichen auf der Gnaden- und Rechtfertigungslehre, inbesondere auf dem paulinisch-augustinischen Gedanken der Prädestination. Die 'eigentliche' Kirche besteht demnach aus der Geistgemeinschaft der praedestinati und nicht primär in den sichtbaren Formen der sakral und lehramtlich wirkenden Hierarchie der kirchlichen Amtsträger." For more on Hussite ecclesiology, see Paul de Vooght, "La confrontation des thèses hussites et romains au concile de Bâle," *Recherches de théologie ancienne et médiévale* 36 (1969): 97–137, 254–91; E. F. Jacob, "The Bohemians at the Council of Basel, 1433," in *Prague Essays,* ed. R. W. Seton-Watson (Oxford: Clarendon, 1949), 81–123; Matthew Spinka, *John Hus' Concept of the Church* (Princeton: Princeton University Press, 1966); and Krämer, *Konsens und Rezeption,* 85–90. On Hussite use of the in sola Virgine tradition, see Krämer, *Konsens und Rezeption,* 231.

33. See Congar, "Incidence ecclésiologique," 289; and Hendrix, "In Quest," 363n69.

34. On Kalteisen, see Werner Krämer, "Die ekklesiologische Auseinandersetzung um die wahre Repräsentation auf dem Basler Konzil," in Zimmermann, *Der Begriff der Repraesentatio im Mittelalter,* 202–37, at 214n39; and Krämer, *Konsens und Rezeption,* 323n10.

35. See Binder, "Thesis in passione," 444–45: "'magis regulariter standum foret iudicio patrum totius concilii quam iudicio Romani pontificis' solius; 'regulariter' quidem, quia nonnumquam fieri posset, ut unus homo, praesertim papa, 'in materia melius sentiret' quam omnes alii. Sic 'secundum communem doctrinam doctorum' beatam Virginem solam in triduo sacro fidem catholicam et sanctitatem Ecclesiae servasse."

36. See *Liber Sextus* 1.2.1 in *Corpus iuris canonici,* ed. Emil Friedberg, 2nd ed., 2 vols. (Leipzig: Tauschnitz, 1879; repr., Graz: Adameische Druck-u. Verlagsanstalt, 1959), 2:937: "licet Romanus pontifex iura omnia in scrinio pectoris sui censetur habere." This phrase actually derives from Roman law, *Codex* 6.23.19. On this point, see Walter Ullmann, *Principles of Government and Politics in the Middle Ages* (London: Methuen, 1961), 75n1.

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tire church."[37] One is likewise reminded of Torquemada's own assertion that "supreme power cannot be except one, nor in except one."[38] Nonetheless, "papalists" such as Torquemada and his confrere Peter of Palude (d. 1347) saw the potential pitfalls in the in sola Virgine theme and thus sought to qualify or even omit the crucial adjective *sola* in order to blunt the attack of reformers and critics of the papacy.[39]

Proponents of the third ecclesiological position, which we may call the "conciliarist" position,[40] were so concerned with the pitfalls of the in sola Virgine theme that they rejected it altogether. For conciliarists such as Aeneas Sylvius Piccolomini, Alfonso de Madrigal, and John of Ragusa, the notion that the faith and/or the church could inhere in a single individual contradicted the very nature of the *ecclesia* as a *corpus* (body) and of *fides* (faith) as a communal reality.[41] Moreover, these authors maintained that scripture itself disproved the in sola Virgine theme. Aeneas Sylvius, for example, interpreted biblical proof-texts, such as John 17:11–12 and Matthew 27:54, to show that Mary was not alone in preserving the faith.[42] In thus rejecting the in sola Virgine theme, the conciliarist position sought to refute both the claims of a "remnant ecclesiology" that undermined the institutional church and the claims of a papalist ecclesiology that reduced the entire church to the person of the pope.

At the Council of Basel (1431–1449), these three ecclesiological positions con-

37. See Huguccio, *Summa* ad Dist. 21 ante c. 1: "in eius persona enim universalis ecclesia significabatur . . . in persona Petri intelligebatur ecclesia, in fide Petri fides universalis ecclesie." Cited by Tierney, *Foundations,* 32n31. On the background to these texts, see Tierney, *Foundations,* 31–32; and Tierney, *Origins,* 31–32. On their ambiguous interpretation, see Tierney, *Foundations,* 32–42; Tierney, *Origins,* 32–39; and note 61 below.

38. John of Torquemada, *Summa de ecclesia* 2.80: "Summa potestas non potest esse nisi una et non nisi in uno." Cited by Antony Black, *Monarchy and Community: Political Ideas in the Later Conciliar Controversy, 1430–1450* (Cambridge: Cambridge University Press, 1970), 68, with n5.

39. On Petrus de Palude, see Binder, "Thesis in passione," 432–33. On Torquemada's attempts to qualify the *sola* in the in sola Virgine theme, see ibid., 445, 455. For more on Torquemada's views, see Thomas M. Izbicki, *Protector of the Faith: Cardinal Johannes de Turrecremata and the Defense of the Institutional Church* (Washington, D.C.: The Catholic University of America Press, 1981), 67–68.

40. This is not to say that some conciliarists (e.g., Pierre d'Ailly) did not espouse another position in regard to the in sola Virgine theme, but those aligned with this third position were, as a rule, advocates of conciliar ecclesiology. On d'Ailly's views, see Binder, "Thesis in passione," 436.

41. See, e.g., Aeneas Sylvius Piccolominus, *De gestis concilii Basiliensis commentariorum libri II,* ed. and trans. Denys Hay and W. K. Smith (Oxford: Clarendon, 1967), 39–41: "Nor do I agree with the view that some commonly hold that at the time of our Lord's passion only the Virgin persisted in the faith, so that some venture to say that the faith can be so reduced that it goes back to a single old woman." For more on Aeneas's position, see Congar, "Incidence ecclésiologique," 287. On Madrigal, see Congar, "Incidence ecclésiologique," 284–85; and Binder, "Thesis in passione," 448–51. On Ragusa, see Krämer, *Konsens und Rezeption,* 103–4, 176; and Helmrath, *Basler Konzil,* 414–15, especially 415n18.

42. See Aeneas Sylvius, *De gestis,* 41, where he concludes: "Especially should we believe the words of Christ, all of which are at variance with those who say that the Virgin alone persevered in the faith."

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nected with the in sola Virgine theme met head-on.[43] A leading theorist and defender of the conciliarist cause at Basel—and not surprisingly a consistent opponent of the in sola Virgine tradition—was the Spanish theologian John of Segovia (d. 1458).[44] While Segovia's opposition to this tradition has long been noted,[45] the remainder of this essay will attempt to document and elucidate his position more extensively (though by no means exhaustively) than has hitherto been done as a way of illuminating the conciliarist position at Basel.

As Werner Krämer has observed, John of Segovia addressed the in sola Virgine theme, or at least the assertion that the faith/church could inhere in a single person, in several works over a nearly twenty-year period.[46] Already at the outset of the Council of Basel (in 1434), when the presidency issue first underscored the conflict between Pope Eugenius IV and the council fathers,[47] Segovia maintained, in his *On the Matter of the Bulls of Presidency* (*Super materia bullarum de praesidencia*) that "the power of the church . . . does not depend entirely upon one single member. Likewise . . . the being or essence or unity of the church cannot subsist solely in one [person] . . . [and] the opinion which says the church could remain solely in a single old woman does not seem to conform to the apostle's teaching [i.e., 1 Cor 12:19]."[48]

Sometime between 1437 and 1439, in the context of the Council of Basel's de-

43. Congar, "Incidence ecclésiologique," 284, noted the relevance of this theme to the fifteenth-century church councils. On the importance of the Marian theme at Basel, see Krämer, *Konsens und Rezeption,* 176, 323; and Helmrath *Basler Konzil,* 414–15.

44. On John of Segovia, see Antony Black, *Council and Commune: The Conciliar Movement and the Fifteenth-Century Heritage* (London: Burns & Oates, 1979), 118–93; Krämer, *Konsens und Rezeption,* 207–55; and Jesse D. Mann, "The Historian and the Truths: Juan de Segovia's *Explanatio de tribus veritatibus fidei*" (Ph.D. diss., University of Chicago, 1993). More recently, see also Santiago Madrigal Terrazas, *El proyecto eclesiológico de Juan de Segovia (1393–1458): Estudio del "Liber de substantiae ecclesiae"* (Madrid: Universidad Pontificia Comillas, 2000).

45. See, e.g., Schüssler, *Der Primat,* 206–7; and Krämer, *Konsens und Rezeption,* 103, 231n60.

46. Krämer, *Konsens und Rezeption,* 103: "Johannes von Segovia bekämpfte diese These als kirchenfeindlich *in mehreren Schriften*."

47. The presidency issue, which occupied the council fathers from February to April of 1434, turned on whether and under what conditions the council should allow the several papal legates to preside over the its proceedings. On this subject, see Gerald Christianson, "Nicholas of Cusa and the Presidency Debate at the Council of Basel, 1434," in *Nicholas of Cusa on Christ and the Church,* ed. Gerald Christianson and Thomas M. Izbicki (Leiden: Brill, 1996), 87–103.

48. Pascal Ladner, "Johannes von Segovias Stellung zur Präsidentenfrage des Basler Konzils," *Zeitschrift für schweizerische Kirchengeschichte* 62 (1968): 1–113, at 37: "Apparet . . . quod potestas ecclesie seipsam conservandi et regendi ac tuendi insit ipsi corpori sive omnibus similiter membris, non autem quod ex unico solo membro dependeat in totum"; and at 97: "Item . . . entitas sive essencia aut unitas ecclesie non potest solum in uno consistere. . . . Ex hoc apparere potest, quod non videtur conformari doctrine apostoli opinio, que dicit, quod ecclesia potest manere eciam in una vetula solum." On the *Super materia bullarum de praesidencia,* see Benigno Hernández Montes, "Obras de Juan de Segovia," *Repertorio de historia de las ciencias eclesiastícas en España,* 6 vols. (Salamanca: Kadnos, 1967–77): 6:273–74; and Krämer, *Konsens und Rezeption,* 209–19. It should be noted that Segovia revised and expanded this work around 1438.

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bates with the Bohemians, Segovia again treated the in sola Virgine theme—this time at greater length—in his *Tractatus decem avisamentorum.*[49] Here again he argued "that saying [i.e., that the faith remained solely in the Virgin during the Passion] is not true but rather most false and suspect of error."[50] Elsewhere in that tract, Segovia also asserted that "the church . . . cannot exist [solely] in a single individual."[51]

These same arguments reappear succinctly in the written version of Segovia's important speech at the Reichstag of Mainz in 1441.[52] There he stated that "the catholic faith cannot remain in a single individual. Wherefore that saying of many, namely that the catholic faith remained solely in the Virgin during the Triduum of Christ's Passion, is judged to be most false."[53]

Finally, sometime after the Council of Basel, probably between 1450 and 1452, John of Segovia composed a relatively little-known work, entitled *Tract on the Correct Understanding of the Common Saying That during the Triduum the Faith Remained Solely in the Virgin* (*Tractatus de vera intelligencia dicti vulgaris quod in sola virgine triduo remansit fides),* devoted entirely to refuting the in sola Virgine theme.[54] The *De vera intelligencia* refers explicitly to and repeats some of the arguments of, the *Decem avisamentorum;* [55] however, its audience and purpose seem to differ from those of

49. On this tract, see Hernández Montes, "Obras," 275–76; Krämer, *Konsens und Rezeption,* 227–41; and Santiago Madrigal Terrazas, "*Si desineret esse sancta, desineret esse ecclesia:* El "Tractatus decem avisamentorum de sanctitate ecclesiae" de Juan de Segovia," in *Ecclesia tertii millennii advenientis,* ed. F. Chica, S. Panizzolo, and H. Wagner (Casale Monferrato: Piemme, 1997), 411–25. *Avisamenta* 3–5 are the relevant ones for our theme.

50. Basel, Universitätsbibliothek MS E I 11, fol. 94r: "Ponitur quartum avisamentum negativum quod hoc dictum non est verum, ymo falsissimum ac de fidei errore suspectum." I am grateful to Dr. Dominik Hunger and Dr. Martin Steinmann of the Universitätsbibliothek Basel for sending me photocopies of this MS.

51. Ibid., fol. 98r: "ecclesia . . . nec in uno solo consistere potest."

52. On this speech and the subsequent written version thereof, see Hernández Montes, "Obras," 296–97; Krämer, *Konsens und Rezeption,* 246; and Mann, "The Historian," ch. 6. The written version of this speech has been edited in *Deutsche Reichstagsh Akten*, 15:648–759 and MFCG, 3:568–686.

53. *Deutsche Reichstagsh Akten*, 15:657: "quod fides catholica in uno solo manere non potest. quocirca dictum illud multorum falsissimum censetur esse triduo passionis Christi in sola virgine remansisse catholicam fidem." Segovia also notes that in order to save time he did not discuss the in sola Virgine theme at greater length in the 1441 speech. This is perhaps an appropriate place to mention that, as will be obvious, John of Segovia frequently reused arguments from his previous works when composing later ones.

54. On this work, see Hernández Montes, "Obras," 306–7; and Krämer, *Konsens und Rezeption,* 174, 231n60. This work survives in a single manuscript: Salamanca, Biblioteca universitaria MS 19, fols. 103r–117v. Krämer, *Konsens und Rezeption,* 231n60, suggests that this MS contains two copies of the *De vera intelligencia* (fols. 1r–15v and 103r–117v), but there is only one copy in MS 19; it simply has two paginations. MS 19 belonged to John of Segovia himself and was part of his library donation to the University of Salamanca in 1457. On this manuscript, see *Catálogo de manuscritos de la Biblioteca universitaria de Salamanca: Manuscritos 1–1679bis,* ed. Oscar Lilao Franca and Carmen Castrillo González (Salamanca: Ediciones Universidad de Salamanca, 1997), 37–40. On Segovia's library donation, see Benigno Hernández Montes, *Biblioteca de Juan de Segovia: Edición y comentario de su escritura de donación* (Madrid: CSIC, 1984), especially 93, 196. The title given here (*De vera intelligencia*) is the title found in the text of Segovia's library donation. In MS 19, the title reads: *De vero intellectu vulgate laudis virginis beatissime quod in ea remansit fides triduo passionis Christi.*

55. See Salamanca, Biblioteca universitaria MS 19, fols. 116v and 117v.

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the earlier tract. Put simply, the *De vera intelligencia* is more a work of pastoral or practical than of dogmatic theology.[56] Its primary concern seems to lie more with the implications of exaggerated pious devotion than with the subtleties of scholastic debate.

Predictably, in the two works (the *Decem avisamentorum* and the *De vera intelligencia*) in which John of Segovia presented a more detailed argument against the in sola Virgine theme, his position mirrors the "conciliarist" stance outlined above. Without oversimplifying too much, one can identify two principal lines of argumentation in these works. The first, based largely on scripture but to some extent on church tradition and reason as well, is that Mary was not the sole guardian of the faith, that others also remained faithful during the Triduum, and that the alleged infidelity of the apostles, even if admitted, did not constitute apostasy. In support of this view, Segovia cited, among other proof-texts,[57] the confession of the centurion (Mt 27:54),[58] Christ's commendation of his mother to the beloved disciple (Jn 19: 26–27),[59] and notably Christ's prayer for Peter that his faith not fail (Lk 22:32)[60]—a text seemingly more conducive to "papalist" than to "conciliarist" ecclesiology.[61] These texts, and indeed this entire argument, address the "historical" accuracy, the "factual" veracity of the in sola Virgine theme and conclude that, on this level, those who say Mary alone preserved the faith are simply wrong.

56. Krämer has not unjustly called this work a reference or primer for preachers; see Krämer, "Die ekklesiologische," 214n39; and idem, *Konsens und Rezeption,* 231n60. However, I should not want to say that the *De vera intelligencia* was intended solely for preachers.

57. The texts cited by Segovia are strikingly similar to those adduced by Aeneas Sylvius; see Aeneas, *De gestis,* 41. Since Aeneas (31), states that his account reflects "what he heard" at the council rather than his own views, one may wonder if he was here recording John of Segovia's words.

58. See *Decem avisa.* (Basel Universitätsbibliothek MS E I 11, fol. 96v); *De vera* intelligencia (Salamanca, Biblioteca universitaria MS 19, fol. 106v). All subsequent references to these works will cite the abbreviated title and folio number(s) of the relevant manuscript.

59. See *Decem avisa.* (fol. 94v); *De vera* intelligencia (fol. 104r). The idea here is that Christ would not have commended his own mother to the care of someone who was about to become an infidel or apostate.

60. See *Decem avisa.* (fol. 94v); *De vera* intelligencia (fols. 110v–111r). Here the idea is that Christ's prayer was necessarily effective and, consequently, that Peter and the other apostles could not have deviated from the faith.

61. According to Tierney, *Origins,* 36 with n1, 37 with n1, the promise of indefectibility implicit in Luke 22:32 was "inherently ambiguous." That is, some medieval canonists interpreted Christ's promise to Peter such that "all the authority Christ conferred on the church was epitomized in Peter and his successors. . . . But, in discussing the maintenance of the true faith in the church, the canonists invariably interpreted the idea that Peter 'signified' the church in a disjunctive sense, that is as implying a distinction between the whole Christian community, whose faith could never fail, and the person of an individual pope." Segovia's use of Luke 22:32 clearly follows the latter interpretation, although his purpose in citing this text obviously differs from that of the canonists. Importantly, in at least one instance, the *Summa Cantabrigiensis* ad Dist. 21 ante c. 1, Luke 22:32 was expressly connected with the in sola Virgine theme, but in a sense directly opposite to Segovia's intention. As Tierney (36) put it: "According to this interpretation of Luke 22.32, the unfailing faith promised to the church in Christ's words to Peter had survived in only one person at the time of the Passion—and that person was Mary, not Peter." For more on Luke 22:32 in relation to the in sola Virgine theme; see Binder, "Thesis in passione," 479.

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Segovia's second principal argument is perhaps more theoretical, though it too is founded on scripture, especially the Pauline epistles. Most notably in the *Decem avisamentorum* (avisa. 5),[62] but also in the *De vera intelligencia* and elsewhere,[63] the Spaniard used an "organic analogy" (*corpus-caput; corpus-membra*) derived from St. Paul to establish the essential pluralism of the church as well as its unity and holiness.[64] As Hermann Schüssler concisely put it: "According to Segovia, 'remnant ecclesiology' is incompatible with the conception of the church as a *corpus.*"[65] Of course, the organic analogy led Segovia not only to reject the in sola Virgine theme, but also to develop a conciliar ecclesiology in which the very locus of ecclesiastical power was "necessarily collegial."[66] On this more theoretical level, the in sola Virgine tradition was not only wrong but impossible.[67]

While the foregoing two arguments predominate in his refutation of the in sola Virgine theme, in the *De vera intelligencia* Segovia introduced another argument, which highlights the interplay among piety, liturgical practice, and dogma. This interplay has long had particular significance in regard to Mary and Mariology. For, as scholars such as Jaroslav Pelikan and Heiko Oberman have pointed out, worship and devotional traditions have contributed directly to important developments in Mariological doctrines. [68] John of Segovia knew this firsthand, since his own defense of the Immaculate Conception (composed during the Council of Basel) relied in part on an argument from liturgical and devotional practice.[69] Indeed, it is no small irony that such a passionate Immaculatist as Segovia opposed the in sola Virgine theme partly on the grounds that excessive devotion to

62. See *Decem avisa.* (fol. 98r): "Quintum avisamentum est quod ecclesia constat ex pluribus membris differentibus virtute et operatione, nec in uno solo consistere potest."

63. See *De vera intelligencia* (fols. 108v–109r); and *Deutsche Reichstagsh Akten,* 15:655: "que cum sit Christi corpus et corpus non est unum membrum sed multa, ecclesia igitur militante semper in fide manente, sicut ecclesia ita nec fides in uno solo manere potest."

64. See Black, *Council and Commune,* 145.

65. Schüssler, *Der Primat,* 206: "Der 'Restgedanke' ist nach Segovia mit der Auffassung der Kirche als Corpus unvereinbar."

66. See Black, *Council and Commune,* 146.

67. See *Deutsche Reichstagsh Akten,* 15:655: "impossibile est fidem catholicam in uno solo manere."

68. See Pelikan, *Mary,* 59–62; and Heiko A. Oberman, *The Harvest of Medieval Theology: Gabriel Biel and Late Medieval Nominalsim,* 3rd ed. (Durham, N.C.: Labyrinth, 1983), 282. On the relation between liturgy and dogma in the early church, see Bernard Capelle, "Autorité de la liturgie chez les Pères," *Recherches de théologie ancienne et médiévale* 21 (1954): 5–22.

69. See John of Segovia, *Septem allegationes et totidem avisamenta . . . circa . . . Immaculatam Conceptionem,* ed. Pedro de Alva y Astorga (Brussels: Typis et sumptibus Balthasaris Vivien, 1664; repr., Brussels: Culture et civilisation, 1965), 21–22, 24–26, 381–82, 523–26. On this work, see Hernández Montes, "Obras," 277–78, 285; see also 294–95. On the role of liturgical practice in regard to the dogma of the Immaculate Conception, see *The Dogma of the Immaculate Conception: History and Significance,* ed. Edward D. O'Connor (Notre Dame, Ind.: University of Notre Dame Press, 1958), 113–59.

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Mary detracted from the excellence of Christ[70]—an argument quite similar to one employed by opponents of the Immaculate Conception.[71]

Since Segovia well knew that pious belief coupled with liturgical tradition could lead to dogmatic formulations, he was keen to show that there is a significant difference between a "pious assertion" and a "catholic truth."[72] Moreover, Segovia dismissed any argument in favor of the in sola Virgine tradition based on the Tenebrae liturgy, among other reasons, because, as was noted above, that liturgy varied widely from region to region. As the Spaniard put it, "the catholic faith rests not on such variety but on a firm solidity."[73]

The danger in such diverse pious beliefs and liturgical practices, as Segovia saw it, was that they could lead to excess and ultimately to error.[74] In their zeal to praise Mary, some advocates of the in sola Virgine theme had overlooked the implications of their own devotion—implications they did not intend.[75] Others, whom Segovia called "heretics," asserted the in sola Virgine theme to be a truth of faith and employed this "truth" to oppose prelates, inquisitors and, indeed, the church itself.[76] Thus, Segovia concluded, "it is fitting that this assertion [i.e., the in sola Virgine] be torn up by the roots."[77]

While the "heretics" Segovia had in mind in his *De vera intelligencia* were surely

70. *De vera intelligencia* (fol. 103v): "presentis indaginis est ostendere quod ab alio latere et in maiori repugnat [i.e., the in sola Virgine theme] fidei pietati de excellencia meritorum Christi in redemptionem humani generis." It should be noted that Segovia refers to the Council of Basel's decree on the Immaculate Conception in his *De vera intelligencia* (fol. 1116v).

71. See Pelikan, *Mary,* 195. Segovia addressed this argument in his *Septem allegationes,* 143. For more on Segovia's Mariological views, see Helmrath, *Basler Konzil,* 383–94, especially 388n123 (with bibliography).

72. *De vera* intelligencia (fol. 103v): "Est enim permaxima differentia inter eam assercionem quam suadet velut pietas fidei et eam que teneri debet tamquam catholica veritas."

73. See ibid. (fols. 109v–110r): "Probatio autem catholice fidei non tali varietate sed soliditati firma constat."

74. See ibid. (fol. 116r): "quoniam hii uno, alii altero intellexerunt modo ex diversitate secuta est occasio erroris."

75. See ibid.: "Existimaverunt certe apud semetipsos laudem hanc virginis beatissime illo triduo passionis in ea perstitisse fidem principaliter exclusive intelligendam, in nullo videlicet alio, quod intencioni laudantium longe abest." One is reminded here of Jean Gerson's objection to another expression of Marian devotion, the *vierge ouvrante;* see Johan Huizinga, *The Autumn of the Middle Ages,* trans. Rodney J. Payton and Ulrich Mammitzsch (Chicago: University of Chicago Press, 1996), 179 with n32. Gerson's sermon, *Puer natus est nobis,* criticizing the *vierge ouvrante* is found in OC, 7a: 948–68, especially 963–64. For more on this subject, see J. Sarrete, *Vierge ouvertes, vierges ouvrantes et la vierge ouvrante del Palau–del Vidre* (Lézignan: Loupiac, 1913).

76. See *De vera intelligencia* (fol. 116v): "Illud autem multiplici experimento comprobantes universis catholicis veraciter atque fideliter annuntiamus appositionem predicatam fuisse hodieque esse multis hereticis inane diffugium doctis catholicis credere nolentibus, sed gloriantibus imprudenter in ipsis eorumque sectoribus manere posse fidem integram totamque ecclesie auctoritatem quomodo in triduo passionis fides remansit in sola Virgine trahentes periculose et allegantes in consequenciam assertionem predictam tamquam fidei catholice irrefragabilem veritatem. . . . Quocirca audatiores effecti contempnunt iudicia amonicionesque prelatorum et inquisitorum."

77. Ibid.: "Decuit igitur assertionem predictam radicitus exstirpari."

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Hussites, one may wonder if he also had in mind William of Ockham, since, as noted at the outset of this essay, Ockham's name and the in sola Virgine theme were and remain so closely intertwined. In any case, as Schüssler and Krämer have rightly argued, Segovia's consistent rejection of the in sola Virgine tradition constitutes a clear rejection of a central element in Ockham's ecclesiology.[78] Consequently, on this important point, Segovia and his fellow conciliarists were not "Ockhamists," and Ockham was no conciliarist.

As John of Segovia repeatedly observed in his numerous polemical tracts written during the height of the conflict between the Council of Basel and Pope Eugenius IV, heretics—and, for Segovia, Eugenius IV himself was one—always prefer their own judgment to that of the entire community of believers.[79] The in sola Virgine theme cast this point in a stark light. To say, as advocates both of a "remnant" ecclesiology and a "papalist" ecclesiology did, that the church and its faith could exist solely in a single individual was, in Segovia's view, to render the faith (and thus salvation) radically uncertain. Against the subjective and unreliable will of an individual or sect, Segovia emphasized the doctrinal authority of the visible, institutional, but *conciliar* church.[80] His position thus reflected the canonistic tradition, enshrined in the *Glossa Palatina,* that "it would be too dangerous to entrust our faith to the judgment [or will] of a single man."[81] At root, the issue was, of course, one of soteriology, not just ecclesiology.

It is not difficult to see how the problems relating to the in sola Virgine theme anticipated the polemics between Protestants and Catholics in the sixteenth century. Schüssler, for example, has noted that Segovia's refutation of "remnant" ecclesiology anticipated many Roman Catholic arguments against Luther and others, and that, on this point at least, Baselean conciliarism was fundamentally "more Catholic" than has often been acknowledged.[82] Not only was this the case with the larger theological issues, but even in the specific instance of the in sola Virgine theme, Segovia's position anticipated many arguments advanced by

78. See Schüssler, *Der Primat,* 206–7; and Krämer, *Konsens und Rezeption,* 174, 231.

79. For examples, see Jesse D. Mann, "The Devilish Pope: Eugenius IV as Lucifer in the Later Works of Juan de Segovia," CH 65 (1996): 184–96, at 193n56.

80. Krämer, *Konsens und Rezeption,* 233 and elsewhere, is right on target in stressing Segovia's advocacy of *Amtssouveränität* (authority of office). For a classic statement of the distinction between sect and church, see Ernest Troeltsch, *The Social Teachings of the Christian Churches,* trans. Olive Wyon, 2 vols. (London: Allen & Unwin, 1931; repr., Louisville: Westminster/John Knox, 1992), 1:331–43.

81. *Glossa Palatina* ad Dist. 19 c. 9: " periculosum erat fidem nostram committere arbitrio unius hominis." Cited by Tierney, *Origins,* 32n4. See also Tierney, *Foundations,* 46. The *Glossa Palatina* was an influential compilation of glosses on Gratian's *Decretum.* It was produced in Bologna between 1210 and 1215.

82. Schüssler, *Der Primat,* 207: "Zugleich wird deutlich, dass dieser Konziliarismus—wenigstens an späteren Massstäben gemessen—in der Wurzel katholischer ist als ihm oft zugebilligt worden ist."

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sixteenth-century Catholic polemicists such as Melchior Cano (d. 1560), Robert Bellarmine (d. 1621), and especially Dominic Bañez (d. 1604), who criticized the in sola Virgine theme as prejudicial to the hierarchical church.[83] Even if, by the sixteenth century, the conciliar movement had lost momentum, opposition along conciliarist lines to the idea that the entire church or faith could survive in a single individual—even the mother of God—remained.

83. On these authors, see Binder, "Thesis in passione," 460–68. See also Congar, "Incidence ecclésiologique," 290: "il est évident que la nécessité de réfuter la position protestante sur la visibilité formelle et la perpétuité de l'Église ont porté un coup à l'opinion concernant la foi de l'Église réfugiée en la seule Marie durant le temps où le Christ était au tombeau."

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PART IV Applications

Introduction

THOMAS M. IZBICKI

Conciliar activity did not occur in a vacuum. Local synods met, and cathedral chapters transacted business as corporate bodies. Several kingdoms held assemblies of notables or their representatives. One need only think of the French Estates-General and the English Parliament. The empire was a complex environment, with the election of the emperor, meetings of the imperial diet, and occasional assemblies of princes and electors to discuss such issues as the choice between the Council of Basel and Eugenius IV. In this context, especially the effort of Basel to reclaim local control of ecclesiastical elections, Günter Hägele and Friedrich Pukelsheim examine the systems evolved by Nicholas of Cusa for imperial elections. These elections, like the councils Cusanus discussed, must be understood in the wider context of Christendom, the idea of a Christian society supported by both the lay and clerical authorities. One such electoral system is found in the *Catholic Concordance* (*De concordantia catholica*), alongside proposals for church governance and reform. Later, Cusanus proposed systems for the election of church officials, and he anticipated approaches later credited to Jean Charles de Borda and Condorcet.

In the same period, conciliar assemblies can be found in the diocese of Florence. This Florentine conciliarism is examined by David S. Peterson, who demonstrates that it shared principles with the republican constitution of the city of Florence. Both clergy and commune sought precedents in authoritative texts, and both sought to limit the powers of any individual. The Florentine clergy went so far as to draft a con-

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stitution, because they felt ill protected by the bishop from the pope and the Roman Curia. In this local development, as in the conciliarism of the Council of Constance, the influence of Francis Zabarella, "the Cardinal of Florence," can be discerned.

Larger applications of conciliar principles did not cease with the failure of the Council of Basel. The late Giuseppe Alberigo discusses differing approaches to councils from Constance to Trent. In particular, he shows how Cusanus creatively synthesized conciliar thought and made it more flexible than the dogmatism that came to predominate at Basel. The Basel challenge inspired a papalist revival, best represented by John of Torquemada. This revived papalism, with its certainties, helped blind Rome to the challenges that would confront it in the Reformation. In its turn, this new challenge inspired a response from the Council of Trent, one which, however, did not simply ratify Rome's most autocratic vision of itself.

While Alberigo's essay shows the recent move away from condemnation of the Council of Trent as a reactionary force, highlighting its occasional resistance to papal policy, Christopher M. Bellitto shows this great council taking creative measures. Bellitto examines the common misconceptions of Trent and the Second Vatican Council that have predominated even into our own time. His essay shows Trent as more innovative—and more turbulent—than once thought and Vatican II as not necessarily in stark opposition to the earlier council. Both were human events, involving churchmen striving to find their way in difficult times. Any future ecumenical council will face similar challenges of reconciling faith and practicality, update and affirmation of principles. It will also incur the danger of strife and division arising from misconceptions and conflicting ideals.

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11

The Electoral Systems of Nicholas of Cusa in the *Catholic Concordance* and Beyond

GÜNTER HÄGELE AND
FRIEDRICH PUKELSHEIM

Electoral systems form a recurrent theme throughout the writings of Nicholas of Cusa. They are admittedly just a side theme within his broad scope of interests, yet they appear in his first major work, the *Catholic Concordance* (*De concordantia catholica*), as well as in later publications written when he was traveling in Germany as a papal legate in 1451–52. Surprisingly, the electoral systems designed by Cusanus have only recently been rediscovered in political science literature, where the Cusan system is known under the name of Borda.

In this chapter we review Cusanus's writings on electoral systems.[1] First we describe his proposed system for the election of the king appearing in the *Catholic Concordance.* Next we argue that the *Concordance* system abounds with novel ideas to such an extent that it undoubtedly deserves an independent standing beside the electoral systems of Ramon Llull. Our discussion then turns to the clerical electoral systems

1. We build on Günter Hägele and Friedrich Pukelsheim, "Die Wahlsysteme des Nikolaus von Kues," in *Bayerische Akademie der Wissenschaften, Mathematisch-Naturwissenschaftliche Klasse, Sitzungsberichte Jahrgang 2001–2003* (Munich, 2004), 1–47; Hägele and Pukelsheim, "Das Königswahlsystem der Concordantia Catholica," MFCG 29 (2005): 81–94 [Akten des Internationalen Symposiums über "Das Mathematikverständnis des Nikolaus von Kues—mathematische, naturwissenschaftliche und philosophisch-theologische Dimensionen," 8.–10. Dezember 2003, Schwäbisches Tagungs- und Bildungszentrum Kloster Irsee].

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that Cusanus mentions in his later writings. Finally, we relate the electoral systems of Cusanus and Llull to those of Jean Charles de Borda (1733–99) and the Marquis de Condorcet (1743–94).

The Electoral System in the *Catholic Concordance* (*De concordantia catholica*)

Cusanus authored his first major work, the *Catholic Concordance,* while he was an incorporated member of the Council of Basel in 1433–34.[2] He was thirty-three years old, serving as a lawyer to the archbishop of Trier. The first two books of the *Concordantia catholica* treat ecclesiology and the theory of councils. The two books were originally intended to stand on their own, to be published under the title *Libellus de ecclesiastica concordantia.* When news spread in Basel that Emperor Sigismund was about to visit the council—in fact, he arrived on October 11, 1433—Cusanus hastened to add a third book dealing with the reform of the empire.[3] He rearranged some of the contents of the *Libellus* and added new material to create the *Concordantia catholica.* Cusanus's use of the term *concordantia* reaches beyond the traditional concordance of established authorities.[4] It indicates a view peculiar to Cusanus: a convergence in harmony that respects individual differences.[5]

Already the *Libellus* text featured an electoral system, intended for the elections of clerical officeholders. This first draft was then extended to include a system for the election of the king of the Romans, which formed chapter 37 of book 3 (#535–41 [h XIV, 448–50]) of the *Catholic Concordance.* The work was edited in 1968 as volume 14 of the *Opera omnia;* the issue with book 3 appeared in 1959.[6]

When Cusanus authored the *Catholic Concordance* in 1433, he had not witnessed any elections of the king of the Romans. The last election had taken place on July 21, 1411, when Cusanus was ten years old; and the next election would not take place until March 18, 1438.[7] Hence Cusanus drew on what he had read (III,

2. Citations are from *De concordantia catholica,* ed. Gerhard Kallen, in *Nicolai de Cusa opera omnia iussu et auctoritate Academiae Litterarum Heidelbergensis* (Hamburg, 1964), vol. 14 of NC.

3. Roger Bauer, "Sacrum imperium et imperium germanicum chez Nicolas de Cues," *Archives d'histoire doctrinale et littéraire du Moyen Âge* 21 (1954): 207–40; Bernhard Töpfer, "Die Reichsreformvorschläge des Nikolaus von Kues," *Zeitschrift für Geschichtswissenschaft* 13 (1965): 617–37.

4. Franz Gillmann, "Wann kam das Wort *concordantia* auf?" *Archiv für katholisches Kirchenrecht* 112 (1932): 482–87.

5. Hans Gerhard Senger, "Allumfassende Eintracht," in Senger, *Ludus Sapientiae: Studien zum Werk und zur Wirkungsgeschichte des Nikolaus von Kues* (Leiden: Brill, 2002), 19–42.

6. Morimichi Watanabe, "The Origins of Modern Cusanus Research in Germany and the Establishment of the Heidelberg *Opera omnia,*" in *Nicholas of Cusa in Search of God and Wisdom,* ed. Gerald Christianson and Thomas M. Izbicki (Leiden: Brill, 1991), 17–42.

7. Silvinus Müller, "Die Königswahlen und Königskrönungen," in *Krönungen. Könige in Aachen—Geschichte und Mythos. Katalog der Ausstellung,* ed. Mario Kramp, 2 vols. (Mainz: P. von Zagern, 2000), 1:915–18.

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36, #533 [h XIV, 447]): that former elections were dominated by absurd intrigue, that electors primarily secured their individual advantages, and that the fate of the empire was neglected. Cusanus wanted to incite the Council of Basel to set a strict rule (*regula*) to secure elections that were proper and pure (*puritas electionis*).

During the thirteenth century the group of electors of the king of the Romans had narrowed down to a well-defined electoral college, the college of prince electors.[8] The term *collegium* is the appropriate legal term for such a closed group of electors.[9] There were three cleric electors, the archbishops of Mainz, Trier, and Cologne, and four lay electors, the king of Bohemia, the Count Palatine, the Duke of Saxon, and the Margrave of Brandenburg. The privileges of the college of prince electors were sanctioned in the *Golden Bull* of 1356.[10] In the course of time, the electoral vote acquired a somewhat more objective role, with the elector functioning as a representative of his *Kurfürstentum* rather than exercising electoral power as an individual.[11]

Chapter 37 (*Capitulum XXXVII*)

Cusanus presents his new electoral system in chapter 37 of the *Catholic Concordance.* He starts out with some preparatory arrangements that are directed toward the electors (*sacri imperii electores*).[12] In our translation, we occasionally smooth the text to enhance the transparency of the exposition.[13]

Sacri imperii electores, dum ad electionem procedere volunt futuri imperatoris, die statuto cum omni humilitate et devotione maxima ad divina conveniant spoliantes se omni peccato, ut in medio eorum sit Christus dominus et invocata gratia sancti spiritus. Post introductionem devotam

The electors of the holy empire, when they wish to proceed to the election of the future emperor, should assemble on an appointed day in all humility and with the utmost devotion to the service of God and free themselves from all sin, so that Christ the Lord may be in their midst and they

8. Armin Wolf, *Die Entstehung des Kurfürstenkollegs, 1198–1298—Zur 700-jährigen Wiederkehr der ersten Vereinigung der sieben Kurfürste* (Idstein: Schulz-Kirchner, 2000).

9. Peter Landau, "Was war um 1300 ein Kollegium?" in *Königliche Tochterstämme, Königswähler und Kurfürsten,* ed. Armin Wolf (Frankfurt: Vittorio Klostermann, 2002), 485–95.

10. Ernst Schubert, "Königswahl und Königtum im spätmittelalterlichen Reich," *Zeitschrift für historische Forschung* 4 (1977): 257–338, at 289.

11. Ibid., 283; Helmut Assing, "Der Aufstieg der askanischen Markgrafen von Brandenburg in den Kurfürstenrang," in Wolf, *Königliche Tochterstämme,* 357.

12. Gerd Kleinheyer, *Die kaiserlichen Wahlkapitulationen: Geschichte, Wesen und Funktion* (Karlsruhe: Müller, 1968), 3.

13. See also *Nicholas of Cusa: The Catholic Concordance,* trans. Paul E. Sigmund (Cambridge: Cambridge University Press, 1995), 303–5; Iain McLean and John London, "The Borda and Condorcet Principles: Three Medieval Applications," *Social Choice and Welfare* 7 (1990): 99–108; Iain McLean and John London, "Ramon Lull and the Theory of Voting," *Studia Lulliana* 32 (1992): 21–37; Iain McLean and A. Bernard Urken, *Classics of Social Choice* (Ann Arbor: University of Michigan Press, 1995), 77–78.

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agendae rei tractent de pluribus, qui ad imperium dispositione extrinseca et intrinseca tantae maiestatis digni esse possint. Et ad hoc, ut absque omni timore, liberrime et secretissime ipsa electio celebretur, praestitis iuramentis supra altare domini de eligendo iusto liberae conscientiae iudicio meliorem. (III, 37, #535 [h XIV, 448])

may receive the grace of the Holy Spirit. After a solemn introduction into the electoral business they should decide on the list of the candidates who, because of their outward or inner qualities, may be worthy of so majestic an office. So that the election may be carried out without fear and in complete freedom and secrecy, they swear oaths at the altar of the Lord that they will elect the best man in the just judgment of a free conscience.

Ballot Design

An idea peculiar to Cusanus is that every elector places the candidates into a rank order by using paper ballots (*cedulae*). The easy availability of paper was an achievement of the fifteenth century. In fact, paper ballots were used also in municipal guild and council elections.[14]

Faciant per unum notarium nomina omnium, de quibus tractarunt, in cedulas praecise aequales redigi, et semper unum nomen in una cedula tantum, et in fine illius nominis distincte signetur numerus per 1, 2, 3, quousque perveniatur ad numerum personarum, de quibus in tractatu mentio facta fuit, quod digni reputarentur. Puta sunt decem comperti per Alemanniam, qui digni visi sunt, inter quos communi iudicio dignior eligi debet. Ponatur itaque in una cedula nomen unius tantum, et sub illo nomine vel in eius latere numerus ab uno usque decem, et dentur cuilibet electori decem cedulae decem nominum. (III, 37, #535–36 [h XIV, 448–49])

The names of all those on the list of candidates are put down by a notary on identical ballots, with only one name on each ballot. Next to each name the numbers 1, 2, 3 are written, up to as many as there are persons that have been decided upon to be worthy as candidates. For example, if ten candidates have been found in Germany who appear worthy and from among them the one most worthy is to be chosen by common judgment, then each ballot bears the name of just one candidate and the numbers 1 to 10 under or next to the name. Every elector receives ten ballots with the ten names.

A professional scribe (*notarius*) prepares the ballots so that they all come out identically. Each ballot carries the name of just a single candidate, followed by the rank scores: 1 to 10. Thus the number of ballots depends on the number of

14. Jörg Rogge, "Ir freye wale zu haben—Möglichkeiten, Probleme und Grenzen der politischen Partizipation in Augsburg zur Zeit der Zunftverfassung (1368–1548)," in *Stadtregiment und Bürgerfreiheit—Handlungsspielräume in deutschen und italienischen Städten des Späten Mittelalters und der Frühen Neuzeit,* ed. Ulrich Schreiner and Ulrich Meier (Göttingen: Vandenhoeck & Ruprecht, 1994), 244–77, 250, 255.

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candidates. In order to circumvent an undetermined variable, Cusanus illustrates the system with an example of ten candidates. Then, every elector receives ten ballots, one for each candidate. Cusanus gives no indication why the case with ten candidates makes a typical example. It would seem to us that so many candidates would have been an extreme exception. For the period 919–1806, Wolf counts fifty-five kings and antikings and 118 further candidates; this would point to about three candidates per election, not ten.[15] Since a formal procedure to identify candidates did not exist, and since at times somebody may have viewed himself as a candidate while his contemporaries did not, exact numbers are not available. But even in a contested election like the one of 1292, there were no more than seven candidates.[16]

Ranking Rule

In municipal elections, the electors dictated the name of their favorite candidate to one and the same scribe, who then wrote the name down on a ballot paper.[17] However, Cusanus is more secretive; every elector is to fill in the ballot by himself or, when illiterate, by someone whom he trusts (*secretarius*). The novel idea of Cusanus's system is that the electors assign rank scores to the candidates, beginning with the one who is least qualified, and leaving as the last name the one who, in the eyes of the elector, is qualified best.

Acceptis itaque cedulis per electores trahat quisque ad partem solus et secrete cum secretario, si litteras ignorat, et positis ante se omnibus decem cedulis legat cuiuslibet nomen. Et tunc in dei nomine secundum suam conscientiam ponderet, quis inter illos omnes minus idoneus exsistat, et signet cum puncto incausti supra primum numerum simplicem longum punctum et post hoc iudicet, quis post illum minus idoneus, et signet secundum numerum cum puncto longo simplici et sic continue, quousque veniet ad optimum suo iudicio, et ibi signabit decimum nu-

When the ballots have been handed out, each elector should go aside alone, or secretly with his secretary if he cannot read and write, place all ten ballots before him, and consider the name on every ballot. In the name of God he should ponder, directed by his conscience, who among all candidates is least qualified, and place a simple long mark in ink above the number 1. Thereafter he should decide who is next least suitable, and mark the number 2 with a simple long overline. Thus he continues until he arrives at the best, in his judgment, and there he will mark the

15. Armin Wolf, "Königskandidatur und Königsverwandtschaft—Hermann von Schwaben als Prüfstein für das Prinzip der freien Wahl," *Deutsches Archiv für Erforschung des Mittelalters* 47 (1991): 45–117, at 45.

16. Armin Wolf, *König für einen Tag: Konrad von Teck: Gewählt, ermordet(?) und vergessen* (Kirchheim unter Teck: Gottlieb und Osswald, 1993), 78.

17. Rogge, "Ir freye wale," 250, 255.

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merum aut illum numerum, qui numero personarum correspondebit. (III, 37, #536–37 [h XIV, 448–49])

number 10, or generally the number corresponding to the number of candidates.

Since it is up to the elector to mark the scores, there would appear to be no necessity to prescribe the sequence in which the electors are to proceed. Cusanus evidently feels differently. The electors are instructed to first identify the weakest candidate and mark his ballot with the lowest score, 1. Then they should identify the second-weakest candidate, find the ballot with his name among the remaining nine ballot papers, and mark the second-lowest rank score, 2. In this way every elector proceeds through the rank scores of 3, 4, 5, 6, 7, 8, and 9, always singling out the weakest among the remaining candidates. The negative selection strategy makes the elector look forward to the end of the process, since the one who is last is the one who is best, whence the elector delights in marking on the last ballot the highest score, 10. Cusanus wants the electors to carry out the marking in such a way that they put a neat and proper overline above the particular number they wish to mark.

In order to ensure secrecy, Cusanus has the electors retreat when marking the ballots, but one wonders where to. The seven top noblemen of the empire presumably would have claimed certain standards on what they felt appropriate, and the illiterate members among them would have needed even more space to be able to take a secretary and consult with him in secrecy. If all this takes place in a single room, the electors can watch each other sorting out the candidates and marking the rank scores. We would consider it quite a challenge to organize the rule as it stands, but Cusanus provides no further detail.

Voting Devices

Dealing with such details indicates that Cusanus is anxious to secure a truly secret vote. Even the size of the overline ink stroke with which the electors are to mark the rank scores on the ballots are a concern. He recommends that the electors discuss its form and agree on a uniform style. His instructions that the electors are given the same ink and identical pens would seem to us quite practical. Secrecy would save the electors from candidate pressure, and the atmosphere governing the election would be peace, not fear.

Et est bonum, quod de eodem incausto et per aequales pennas et aequalia simplicia longa aut brevia puncta, secundum quod concordabunt, signent, ne cuiusquam

It is a good idea for the electors to use the same ink, identical pens, and the same simple marks—long or short, whichever is agreed upon—so that individual hand-

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signatura prae ceteris notari possit ad hoc, ut libertas maior in electoribus et pax inter omnes conservetur. (III, 37, #538 [h XIV, 449])

writings cannot be identified. This preserves maximum freedom for the electors and peace among all.

Vote Totaling

Cusanus's concern to protect the voters from external pressure surfaces again when the ballots are evaluated. The person who is called upon to read out the ballots is the priest who celebrated the Mass opening the electoral proceedings. Perhaps Cusanus drew on the experience with secret ballots in clerical elections. There, a few officials (*scrutatores*) were installed, who interviewed the other electors as to what their vote was. The electoral rules demanded that the scrutatores publicized only the final total and kept the individual votes secret. Cusanus may have trusted that the priest would guarantee secrecy and refrain from giving an indication whether, despite all other precautions, he was able to identify the handwriting on one ballot or another.

Factis itaque illis signaturis deferat in manu cedulas suas quisque ex electoribus, et proiciat unusquisque suas manu propria in saccum vacuum in medio electorum pendentem. Quibus in sacco positis advocetur sacerdos, qui missam celebravit, et quidam computista habens tabulam, in qua secundum ordinem sint illa nomina, ponamus decem, eligendo-rum. Et sedens in medio electorum sacerdos extrahat de sacco seriatim, ut manibus occurrunt, cedulas et legat nomen et numerum signatum. Computista vero in latere illius nominis signet numerum, et ita fiat de omnibus. Quibus expletis colligat per additionem computista numeros cuiuslibet nominis. Et ille erit tunc imperator, qui maiorem numerum habuit. (III, 37, #539 [h XIV, 449])

When the marks have been made, every elector should bring his ballots forward and throw them with his own hand into an empty sack hanging in the midst of the electors. When all ballots have been deposited in the sack, the priest who has celebrated the Mass should be called, as well as a teller with a tablet on which the names of the candidates are listed; in the example there were ten. Sitting among the electors, the priest should take the ballots out of the sack in the order in which they come to hand. He then reads out the name and the number marked, and the teller writes the number next to this name onto his tablet. When all ballots are recorded, the teller should add up the numbers next to each name. The candidate who has the highest total shall be king.

The process of counting the votes starts by collecting all ballots into a sack. With a remarkable love of detail Cusanus insists that, in the beginning, the sack must be empty (*saccus vacuus*). In fact, this instruction has persisted through the

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centuries. Even today a polling station is opened only after the members of the electoral committee have convinced themselves that all urns are empty. In 1472, the Augsburg furrier Georg Merz tried otherwise and, early on, smuggled sixteen ballots into the urn—in his favor, of course. However, he had not reckoned with his alert fellow furriers, who noted the surplus when it came to counting the ballots. Merz was expelled from the city of Augsburg and fled to Bavaria.[18]

With ten candidates and ten ballots properly filled in, every voter marks the ranks 1 up to 10 once each, and thus commands a total of $1 + 2 + \ldots + 10 = 55$ scoring points. Cusanus seems confident that the electors will follow suit. He does not take precautions that an elector, deciding for himself that every candidate is the best, marks the maximum rank scores 10 on each ballot, and thus almost doubles his total rank score to achieve a weight of 100. The clever man could honestly assure any winner that he voted for him to become king.

While Cusanus takes pains to accommodate illiterate electors, the possibility of a mistake in numbering goes unattended. If an elector miscounts and erroneously marks the rank score 1 twice, for example, he will come to an early end with rank score 9, rather than reaching the optimum score of 10.

Whereas the job of producing the ballots is assigned to a professional scribe, Cusanus calls for someone who professionally deals with arithmetic (*computista*) in order to evaluate the scores. The term *computista* may indicate an expert who does calendar calculations.[19] In the fifteenth century, such experts had overcome the use of Roman numbers, instead relying on Arabic *chiffre* and the decimal system. Since each of the seven electors has 55 rank scores to assign, the computista deals with a total of $7 \times 55 = 385$ score points.

Captatio benevolentiae

After having described his electoral system (*eligendi modus*), Cusanus took a few lines to advertise its merits. Perhaps he was concerned that the system may appear too complicated to his audience. He explicitly tells the reader (*credas*) that he himself had been able to compose the system only with great effort.

Et secumdum illam practicam infinitis fraudibus obviatur, et etiam nulla practica sinistra locum habere posset, nec poterit excogitari sanctior, iustior, honestior et liberior eligendi modus, secundum quem	By following this procedure countless frauds are avoided and nothing sinister can happen. It would not be possible to devise a more righteous, just, honest, and free method of election in which, if the

18. Ibid., 260.
19. Arno Borst, *Computus—Zeit und Zahl in der Geschichte Europas* (Berlin: Wagenbach, 1999).

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impossibile erit, si secundum conscientiam eligunt, quin ille praeficiatur, qui ex omnium iudicio simul collecto melior iudicatur. Et non poterit alius modus securior, immo ex quo illa infallibilis sententia haberi posset, inveniri, quoniam omnes comparationes omnium personarum et omnes mixturae et syllogismi per unumquemque ex electoribus factibiles in hoc modo includuntur, quem ego non absque magno studio etiam non potui invenire. Et credas, quod perfectior inveniri nequit. (III, 37, #540 [h XIV, 450])

electors vote according to their consciences, the winner is the one who is judged best by the collective verdict of all. It is not possible to discover a method that leads to so infallible a decision more safely. Indeed, all sorts of comparison among all candidates and all confrontations and arguments likely to be made by every elector are included in this system, which I was able to compose with great effort only. You may well believe that no more perfect method can be found.

It is not entirely clear which words Cusanus uses when he refers to his achievements. We have translated the end of the penultimate sentence as follows:

. . . which I was able to compose with great effort only.

However, Kallen points out that the various manuscripts which underlie the edition provide three variants of the pertinent clause (h XIV, 450n9):[20]

(1) . . . quem ego non absque magno studio etiam non potui invenire.
(2) . . . quem ego absque magno studio etiam non potui invenire.
(3) . . . quem ego non absque magno studio etiam vix potui invenire.

The three variants differ only by nuances, not to be overemphasized through a translation. Kallen prefers variant (1), Honecker relies on (2), and we tend to (3).[21]

The clause has always been a challenge. Kallen quotes a marginal note indicating the understanding of a reader of a former time: "He says that he composed this electoral system after intensive studies only" (*Hunc modum eligendi cum magno studio dicit se invenisse*).

An Amendment (*cautela*)

The final paragraph adds an amendment (*cautela*) concerning the case that a candidate may come from among the lay electors. The *Golden Bull* explicitly admitted the possibility of self-elections. However, that one of the electors posed

20. Gerhard Kallen, *Cusanus Studien VIII: Die handschriftliche Überlieferung der Concordantia catholica des Nikolaus von Kues,* Sitzungsberichte der Heidelberger Akademie der Wissenschaften, Philosophisch-historische Klasse, Jahrgang 1963, Zweite Abhandlung (Heidelberg: Carl Winter Verlag, 1963).

21. Martin Honecker, "Ramon Lulls Wahlvorschlag Grundlage des Kaiserwahlplanes bei Nikolaus von Cues?" *Historisches Jahrbuch der Görresgesellschaft* 57 (1937): 563–74, at 570.

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as a candidate was more of a rule than an exception. Cusanus stipulates that the elector-candidate should receive all ballots except the one with his own name.

Verum, ne quis ex electoribus propria affectione decipiatur, habeatur ista cautela, quod, si est aliquis aut plures, qui ex laicis communi tractatu inter eligendos conscripti sunt, cedula proprii nominis eidem non detur, sed aliae omnes, illa dempta, ut tollatur occasio suspicionis, qua se ipsum optimum omnium aestimare posset maiorem numerum nominis sui signando. Hoc solum dempto regula praescripta in omnibus servetur, et habebitur electio, cui melior non poterit inveniri. (III, 37, #541 [h XIV, 450])

Finally, the following precaution should be taken so that no elector can be perverted by self-interest. If, by the initial common decision, one (or more) of the lay electors has been listed as a candidate, the ballot with his own name should not be handed out to him. With this sole exception, he receives all other ballots. This would avoid an occasion for suspicion that he might adjudge himself the best of all by marking the highest number next to his own name. With this single exception the prescribed procedure should be followed completely. This will result in an election better than any other that could be conceived.

Unfortunately, the cautela may have fatal consequences. Let us assume that Count Ruprecht of Palatine is considered the best of ten candidates uniformly among all members of the electoral college. Since he does not receive a ballot with his own name on it, the only ballots with his name are those handed out to his six fellow electors. The final tally will show a total of 6 x 10 = 60 scoring points for Ruprecht. Let us also assume that all seven electors are in complete agreement as to who is the second-best candidate. Fortunately for the second-best, he receives nine score points from every elector, including Ruprecht, and hence ends up with a total of 7 x 9 = 63. Ruprecht is out and the winner is the second-best!

Other instances are conceivable that exhibit the weakness of the final cautela. The elector-candidate receives only nine ballots, but they all bear the rank scores from 1 up to 10 for him to mark. Which one is he to leave out? Without a 10, his total rank score reduces from 55 to 45. Or should he leave out the 1, to drop from 55 to only 54? In any case, the difference as compared to the otherwise possible overall total of 385 points reveals what he decided to do.

If the ballots for the elector-candidate were to show the rank scores from 1 up to 9 only, then his ballots would be identifiable. And if he had only one competitor—that is, there are just two candidates rather than a flock of ten—then, being deprived of his own ballot, the elector-candidate receives only the ballot with the name of his competitor, and he has no choice at all. In the sequel, we consider the electoral system that Cusanus designed without the final cautela.

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An Appreciation of the *Concordance* System

Kallen's Note *Quod Nicolaus*

In an attempt to evaluate the electoral system of Cusanus we right away stumbled over the irritating note *Quod Nicolaus* with which the editor, Gerhard Kallen, annotated the first paragraph (#535) of chapter 37:

Quod Nicolaus *absque magno studio* invenire non potuisse dicit ex RAYMUNDI LULLI De arte electionis tractatu exscriptum esse M. Honecker, Ramon Luls Wahlvorschlag Grundlage des Kaiserwahlplans bei Nikolaus von Cues? Hist. Jahrb. 57 (1937) p. 563 sqq. edocuit. Ipsum Lulli tractatum De arte electionis idem autor e cod. Cusano 83 fol. 47–48 edidit (M. Honecker, Span. Forsch. der Görresgesellschaft 6 [1937] p. 308 sqq.) (h XIV, 448).

What Cusanus claims to have been able to compose with great effort only, is exscribed from Ramon Llull's tract *De arte electionis,* as pointed out by Honecker.[22] The author edited Llull's tract from Cod. Cus. 83 fol. 47–48.[23]

We have translated Kallen's *exscriptum esse* somewhat literally by the neologism "is exscribed." The interpretation of this passage determines the degree of confusion that comes with it: Does "exscribed" mean that the electoral system proposed by Cusanus "is taken from" Llull's *Ars electionis?*[24] We have come to the conclusion that this suspicion is unfounded.

Our initial reaction was different, directing us to Llull as a much earlier source on electoral systems. In fact, our inquiry into Llull's writings on electoral systems turned into quite an exciting project. It so happened that we rediscovered Llull's tract *Artificium electionis personarum,* which was considered lost. This new source contains valuable information beyond the other two Llull tracts on electoral systems that have come down to us. Having dealt with Llull's electoral systems elsewhere,[25] we focus here on Cusanus's contributions to the subject.

22. Honecker, "Ramon Lulls Wahlvorschlag."

23. Martin Honecker, "Lullus-Handschriften aus dem Besitz des Kardinals Nikolaus von Cues—Nebst einer Beschreibung der Lullus-Texte in Trier und einem Anhang über den wiederaufgefundenen Traktat *De arte electionis,*" *Spanische Forschungen der Görresgesellschaft* 6 (1937): 252–309.

24. As in Sigmund, *The Catholic Concordance,* 305.

25. Günter Hägele and Friedrich Pukelsheim, "The Electoral Writings of Ramon Llull," *Studia Lulliana* 41 (2001): 3–38; Mathias Drton, Günter Hägele, Dominik Haneberg, Friedrich Pukelsheim, and Wolfgang Reif, "Ramon Llulls Traktate zu Wahlverfahren: Ziele und Realisierung einer Internet-Edition," in *Mediaevistik und Neue Medien,* ed. Klaus van Eickels, Ruth Weichselbaumer, and Ingrid Bennewitz (Ostfildern: Thorbecke, 2004), 131–140; Mathias Drton, Günter Hägele, Dominik Haneberg, Friedrich Pukelsheim, and Wolfgang Reif, "A Rediscovered Llull Tract and the Augsburg Web Edition of Llull's Electoral Writings," *Le médiéviste et l'ordinateur* 43

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Cusanus aims for a secret vote in order to save the electors from social pressure and corruption. His system builds on the use of written ballots that each elector has to fill in himself. The system forces the electors to compare every candidate against every competitor and to differentiate between them by using consecutive rank scores. The candidate whose final score total is the highest is the winner.

Llull, in his tract *Ars electionis,* describes an open vote in that the social control to which electors are then exposed shields them from intrigue and corruption. Rather than using a written ballot, the electors are interviewed as to what their vote is. The system builds on a tournament of paired comparisons of candidates. The winner of a paired comparison proceeds to the next round; the loser is out. The final round produces the overall winner of the election. This rule is biased in favor of the candidates who enter into the process at a later stage.

The differences between the electoral systems of Cusanus and Llull are so substantial that we find Kallen's note that Cusanus exscribed his system from Llull poorly worded. Kallen relied on the authority of Martin Honecker, who compared the electoral systems of Cusanus and Llull with words that we find misleading or, at least, inviting misinterpretation.[26] However, after scrutinizing Honecker's text, we have to admit that he never explicitly claimed that the two systems are identical. He mentioned some aspects that the two systems have in common and he advanced persuasive evidence that Cusanus knew of the Llull tract. But he also emphasized that the step from Llull to Cusanus is a noticeable one. At no point did he formulate a phrase to the effect that Cusanus "exscribed" his system from Llull. Moreover, Honecker chose a title for his paper ending in a prominent question mark. Morimichi Watanabe put the record straight: "For an attempt to indicate a link between Nicholas's proposal and another electoral method proposed by Ramon Lull, see Martin Honecker."[27]

Right at the beginning of his paper Honecker referred to Kallen.[28] Conversely, Honecker's and Llull's names are suspiciously absent from Kallen's papers.[29]

(2004). We have prepared an electronic edition of Llull's writings on electoral systems that is displayed on the Internet at www.uni-augsburg.de/llull.

26. Honecker, "Ramon Lulls Wahlvorschlag," 569–74; Hägele and Pukelsheim, "The Electoral Writings," 30–32.

27. Morimichi Watanabe, *The Political Ideas of Nicholas of Cusa, with Special Reference to His "De concordantia catholica"* (Geneva: Droz, 1963), 141.

28. Honecker, "Ramon Lulls Wahlvorschlag," 563.

29. Gerhard Kallen, *Nikolaus von Cues als politischer Erzieher,* Wissenschaft und Zeitgeist 5 (Leipzig: Felix Meiner Verlag, 1937); Kallen, "Der Reichsgedanke in der Reformschrift *De concordantia catholica* des Nikolaus von Cues," *Neue Heidelberger Jahrbücher, Neue Folge, Jahrbuch 1940* (1940): 59–76; Kallen, "Die politische Theorie im philosophischen System des Nikolaus von Cues," *Historische Zeitschrift* 165 (1942): 246–77, reprinted in Kallen, *Probleme der Rechtsordnung in Geschichte und Theorie—Zehn ausgewählte Aufsätze* (Cologne: Böhlau, 1965), 141–71.

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Instead, Kallen proclaims that Cusanus was not blinded by Roman thinking,[30] that Cusanus emphasized the ancient Germanic view that an emperor be elected by unanimity,[31] and that the political theory of Cusanus could unfold only *im deutschen Volk*.[32] We do not know how far Kallen's writings bowed to the Zeitgeist,[33] but Honecker resisted political pressure when necessary.[34]

Erhard-Wolfram Platzeck complained that in former times Cusanus experts did not properly acknowledge Llull.[35] He expressed his hopes that this might change, and his hopes have come true.[36] Following the stylistic rule that the main message is found in the main clause and that the subordinate clause contains subordinate information, then, when analyzing the note *Quod Nicolaus,* we should focus on the main clause: *Honecker edocuit; idem autor edidit.* The main message is that it is Kallen's turn, after twenty-two years, to acknowledge Honecker's contributions to the subject, while Kallen's supplementary remarks on Honecker's contributions come out somewhat ill conceived.

Llull's *Ars electionis*

We believe that Cusanus did not need a historic precursor to be concerned about electoral systems. After all, a disputed election was his reason for being in Basel. Cusanus was acting as a lawyer to Count Ulrich von Manderscheid who, in 1430, lost the election to become bishop of Trier but nevertheless claimed a victory.[37] As submissions to Rome requesting an intervention had not proved successful, Cusanus traveled to Basel to present the Manderscheid case to the council. While his work the *Catholic Concordance* constitutes a general exposition of the relations between the papal Curia and general councils, it nevertheless also contains various arguments that Cusanus built into the legal case he fought for.[38] The chain from the schism of Trier via a drafted electoral system for clerical pur-

30. Kallen, *Nikolaus von Cues als politischer Erzieher,* 4. 31. Kallen, "Der Reichsgedanke," 64.

32. Kallen, "Die politische Theorie," 266.

33. Ursula Lewald, "Gerhard Kallen, 1884–1973," *Rheinische Vierteljahresblätter* 37 (1973): XIII–XVI.

34. Max Müller, "Martin Honecker zum Gedächtnis," *Philosophisches Jahrbuch* 74 (1966–67): 228–31, at 230.

35. Erhard-Wolfram Platzeck, "Lullsche Gedanken bei Nikolaus von Kues," *Trierer Theologische Zeitschrift* 62 (1953): 357–64.

36. Charles H. Lohr, "Ramón Lull und Nikolaus von Kues: Zu einem Strukturvergleich ihres Denkens," *Theologie und Philosophie* 56 (1981): 218–31, at 228.

37. Erich Meuthen, *Das Trierer Schisma von 1430 auf dem Basler Konzil—Zur Lebensgeschichte des Nikolaus von Kues* (Münster: Aschendorff, 1964); Morimichi Watanabe, "The Episcopal Election of 1430 in Trier and Nicholas of Cusa," CH 39 (1970): 299–316, reprinted in Watanabe, *Concord and Reform: Nicholas of Cusa and Legal and Political Thought in the Fifteenth Century,* ed. Thomas M. Izbicki and Gerald Christianson (Aldershot, U.K.: Ashgate, 2001), 81–101.

38. Werner Krämer, "Rezension zu Kallen, Gerhard: *Nicolai de Cusa Opera omnia* XIV 1–4: *De concordantia catholica,*" *Historische Zeitschrift* 209 (1969): 143–50, at 145; Erich Meuthen, *Nikolaus von Kues, 1401–1464: Skizze einer Biographie. Siebte Auflage* (Münster: Aschendorff, 1992), 40.

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poses in the *Libellus* to the final electoral system in the *Catholic Concordance* would seem to us to be so densely interwoven into Cusanus's vita that he did not need any external stimulus to contemplate the use and misuse of electoral systems.

Nonetheless, Honecker's research provides conclusive evidence that Cusanus knew Llull's *Ars electionis.* Honecker conjectured that it was Cusanus himself who copied the tract.[39] Later, Haubst found out that Cusanus indeed visited Paris in 1428.[40] In any case, there is ample evidence that Cusanus was fascinated by Llull's philosophy and occasionally used some of Llull's vocabulary.[41]

Remarkably, though, there is no indication that Cusanus made any serious attempt to understand Llull's combinatorial schemes. But without the combinatorial tools that are so characteristic of Llull's arguments it is impossible to understand Llull's electoral systems. We believe that Cusanus, while knowing Llull's tract *Ars electionis,* may not have investigated Llull's electoral system in detail, and we substantiate our belief as follows.

Cusanus worked through many of the excerpts that he copied in Paris in 1428 by writing annotations or corrections into the margins. However, the copy of the *Ars electionis* is free from any such comments. Quite the contrary, writing errors, erasures, and doublings would suggest to us that the writer did not instantly understand the material or that he was suffering from lack of concentration.

An error that occurs four times is particularly worth mentioning. When the text refers to Llull's combinatorial symbols, a lone letter "c" is written as a long "s." Honecker took this as an indication that the text from which the copy was prepared was written in the Catalan language; we have followed up on this hypothesis elsewhere.[42] Motivated by Wolf, [43] we meanwhile believe that a palaeographic explanation is more likely. Harald Drös from the Inschriftenkommission of the Heidelberg Academy of Sciences drew our attention to the fact that in strict textura the lowercase letters c and s, in the form of a whip-s, are almost identical in their geometry, and differ only in that the whip-s has a longer upstroke.[44] Ferdinand Dominguez from the Raimundus-Lullus-Institut, Freiburg im Breisgau,

39. Honecker, "Lullus-Handschriften," 291, 306.

40. Rudolf Haubst: "Der junge Cusanus war im Jahre 1428 zu Handschriften-Studien in Paris," MFCG 14 (1980): 198–205.

41. Platzeck, "Lullsche Gedanken bei Nikolaus von Kues"; Eusebio Colomer, *Nikolaus von Kues und Raimund Llull: Aus Handschriften der Kueser Bibliothek* (Berlin: De Gruyter, 1961); Ulli Roth, *Die Exzerptensammlung aus Schriften des Raimundus Lullus im Codex Cusanus 83* (Heidelberg: Carl Winter Verlag, 1999).

42. Honecker, "Lullus-Handschriften," 308; Hägele and Pukelsheim, "The Electoral Writings," 32.

43. Wolf, "Königskandidatur und Königsverwandtschaft," 78.

44. Die Mitarbeiter der Inschriftenkommissionen der Akademien der Wissenschaften in Berlin, Düsseldorf, Göttingen, Heidelberg, Leipzig, Mainz, München und der Österreichischen Akademie der Wissenschaften in Wien, *Deutsche Inschriften: Terminologie zur Schriftbeschreibung* (Wiesbaden: Reichert, 1999), 52, 61.

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pointed out to us that the library of the Chartreuse of Vauvert may have contained books manufactured by professional calligraphers.

The error could therefore be explained this way: the tract was copied from a text that was written in strict textura and the copier, working mechanically rather than tracing the meaning, misread the lowercase letter c to be a whip-s. The most pronounced error in the Cod. Cus. copy is *eccencia* which, however, is instantly noted by the copier and corrected into *ecclesia.* Indeed, the visual appearance of the two words in strict textura is strikingly similar.

If we follow up on the paleographic hypothesis, then the replacement of "c" by "s" would indicate a definite lack of understanding. Nowhere in Llull's voluminous production does the letter make an appearance in one of the combinatorial alphabets. Our conclusion would suggest that Cusanus—be it as a writer or as a reader—did not really think through Llull's combinatorial ways of argument. But then, having achieved only a vague understanding of the electoral system from the *Ars electionis,* Cusanus could not have really built on it when he composed his own system in the *Catholic Concordance.* Still, the Llull tract may have spurred Cusanus to devise a system of his own. When Cusanus took on the Manderscheid case, the motivation to design a novel electoral system acquired a renewed momentum and materialized first in draft form in the *Libellus* and then in final form in the *Catholic Concordance.*

In our discussion so far, we have concentrated on the operational details of Cusanus's electoral system. It would be of interest to explore whether the ideas underlying his system run parallel with his philosophical work. The scoring method calls for relative comparisons rather than absolute qualities. The rank score for each candidate could be taken as measurements of the type that are recorded in experiments with scales.[45] The essential instruction to first single out the least suitable candidate, then the second-least suitable candidate and so on, make the elector rise from the bad to the good. The ascent to the better conforms with the Neoplatonic step model of human intellectual growth.[46] The number 10, which Cusanus chooses as an example, is the subject of many philosophical remarks that, almost thirty years later, Cusanus builds into his discourse on *The Game of Spheres* (*De ludo globi*).[47]

45. Fritz Nagel, *Nicolaus Cusanus und die Entstehung der exakten Wissenschaften* (Münster: Aschendorff, 1984), 84.

46. Anke Eisenkopf, "Mensch, Bewegung und Zeit im Globusspiel des Nikolaus von Kues," *Litterae Cusanae* 3 (2003): 49–60, at 53.

47. Nicolaus Cusanus, *Gespräch über das Globusspiel,* ed. Gerda von Bredow (Hamburg: Felix Meiner Verlag, 1999), 83–125. English translation in *Nicholas de Cusa, "De ludo globi": The Game of Spheres,* trans. and intro. Pauline Moffitt Watts (New York: Abaris, 1986).

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Other Decision Systems in the *Catholic Concordance*

In chapter 38 of the *Catholic Concordance,* Cusanus included some brief remarks on other voting systems. In the first system, all options are listed on every ballot (III, 38, #546 [h XIV, 451–52]). The voter is encouraged to proceed by positive selection, in that the decision he favors is left untouched while all other alternatives are crossed out with a thick stroke *(linea grossa)* (III, 38, #547 [h XIV, 452]). Again, all ballots are collected in a sack and then evaluated. The proposal with the maximum number of votes is the one accepted. This is a system relying on simple majority. Furthermore, secrecy is to be observed so that the voter is not subject to any pressure. Finally, Cusanus mentions the Venetian voting system (III, 38, #550 [h XIV, 453]), still with the goal to select one proposal out of many. The voter takes a small ball into his closed fist and puts the fist first in a black box, then in a white box. If he is in support of the proposal he drops the ball in the white box, otherwise, into the black box.[48]

Electoral Systems for Clerical Officeholders

Review of the *Libellus* System

The electoral systems that Cusanus mentioned later in his life are meant to be used for elections of church officials. They very much resemble the system for the election of the king in the *Catholic Concordance,* in particular through the draft form in the *Libellus.* We briefly return to some of the peculiarities of the electoral system in the *Libellus.* The opening sentence deserves mentioning:

In electionibus ad hoc laboratur, ut plurimorum iudicio melior perficiatur, et ad finem huius variae formae sunt inventae (II, 33, #245a [h XIV, 280]).	Elections serve the purpose that majority rule is used to put the best into power, and to this end various rules have been invented.

Cusanus pointed to various other systems that have been invented but, unfortunately, he does not give any details about which systems he refers to. More important, he stressed that the purpose of a voting system is to express the opinion of the majority. However, the system for electing the king, as well as the clerical systems that we turn to below, are scoring methods; the "majority" thus is not composed by the number of electors supporting a particular candidate, but by their qualified judgment as expressed through rank scores. In Cusanus's eyes,

48. Marji Lines, "Approval Voting and Strategy Analysis: A Venetian Example," *Theory and Decision* 20 (1986): 155–72.

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majority does not mean naked *numerositas,* but involves the judgment of a limited number of qualified electors.[49]

In the *Libellus* system, the clerical electors receive a single paper ballot carrying the names of all candidates, similar to the decision system of chapter 38 of the *Concordantia catholica.* Again the electors proceed by negative selection, in that they are instructed to mark a clearly visible dot (*unum punctum satis visibilem*) next to the name of the least suitable candidate. The second-least suitable candidate is marked with two dots, and so forth. We are reminded of Llull, who recommends in his tract *Artificium electionis personarum*[50] that *unus punctus* be used to mark a victory in one of the various paired comparisons. It is unlikely that Cusanus knew of this other Llull tract, but already the Roman people proceeded in this way.[51]

In the system for the election of the king, Cusanus neglected the possibility of ties. For the clerical *Libellus* system, he did consider ties and proposed to choose the more senior among the tied candidates. This tie-breaking rule is compatible with canonic law. Perhaps Cusanus imagined that clerical candidates are all equally virtuous, whence the occurrence of ties is more likely.

The troublesome cautela that we criticized above is absent from the *Libellus* system. We have no clue why Cusanus based the system of the election of the king on a bundle of ballots, one for each candidate's name, while in the *Libellus* system (as in the Salzburg Avisament and the Hildesheim Edict systems) he uses a single ballot showing all names.

The Salzburg Avisament

Erich Meuthen discovered that in 1451, eighteen years after the publication of the *Catholic Concordance* during the Council of Basel, Cusanus again pondered electoral systems, during his journey through Germany in his function as a papal legate.[52] A first written version of his thought is the avisament that is kept in Salzburg.[53] The somewhat unusual purpose of the electoral system in the Salzburg Avisament is to elect a successor for a clerical office that is not yet vacant.[54]

In this system ties are no longer broken by seniority.[55] Instead, among all tied candidates, the one from the chapter is to be preferred over the one from the diocese, and anyone from the diocese is to be preferred over the one from the church

49. Erich Meuthen, "Modi electionis: Entwürfe des Cusanus zu Wahlverfahren," in *Staat und Parteien: Festschrift für Rudolf Morsey zum 65. Geburtstag,* ed. Karl D. Bracher, Paul Mikat, Konrad Repgen, Martin Schumacher, and Hans-Peter Schwarz (Berlin: Duncker & Humblot, 1992), 3–11, at 6.

50. Hägele and Pukelsheim, "The Electoral Writings," 23.

51. E. Stuart Staveley, *Greek and Roman Voting and Elections* (London: Thames & Hudson, 1972), 158, 175.

52. Meuthen, "Modi electionis," 3–11.

53. AC 1, 3a, no. 1001.

54. Meuthen, "Modi electionis," 8.

55. AC 1, 3a, no. 1001, l.49–52.

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province. Only when a tie occurs among two members of the chapter (or of the diocese, or of the church province) does the senior win. But, as Cusanus hastened to add, ties will never occur, or only very rarely.

The filled-in ballots are locked away until the officeholder dies. As soon as the vacancy materializes, they are evaluated. The successor is the one who receives the maximum vote total. If the winner is no longer alive, the runner-up is to proceed to office. This is the only place where Cusanus made use of the fact that his electoral systems not only identify the one candidate who is best, but the aggregated scores provide a ranking of all the candidates, from the least suitable up to the best. In a system such as that for the election of the king, the resulting global preference profile is much more than is needed, since only a single winner is sought. However, a preference profile may be put to good use in something like the Salzburg Avisament system, in which the ballots are collected at some convenient occasion while the evaluation of the ballots is postponed to a future point in time.

Since a considerable time span may elapse between filling in the ballots and evaluating them, Cusanus takes precautions to safeguard against corruption of the electorate. We would also propose to take into consideration that, when ballots are evaluated, an elector may have died, been excommunicated, or otherwise have disappeared from the electoral college. Cusanus proposed a rule that is akin to what nowadays goes under the term of absentee vote. The electors are supposed to sign their ballots with their signatures in a way that permits them to preserve a secret ballot.[56]

Cusanus's rule merges three different aspects: social control as an argument in favor of an open election, as proposed in Llull's *Ars electionis;* election officials such as scrutatores, who keep the voters' decisions secret; and the wiser-part principle, such that the weight of a ballot depends on the worthiness of the voter.

The principle of the sounder part (*sanior pars*) of the electorate calls for an upper-level person or upper-level body having the authority to reject an electoral decision, if need be.[57] Such interventions were common also in secular elections, and served to stabilize society. For example, the Augsburg carpenter Marx Neu-

56. Ibid., l.39–45.

57. Bernhard Schimmelpfennig, "Das Prinzip der *sanior pars* bei Bischofswahlen im Mittelalter," *Concilium* 16 (1980): 473–77; Bernhard Schimmelpfennig, "Papst- und Bischofswahlen seit dem 12. Jahrhundert," in *Wahlen und Wählen im Mittelalter,* ed. Reinhard Schneider and Harald Zimmermann (Sigmaringen: Thorbecke, 1990), 173–95; Klaus Schreiner, "Wahl, Amtsantritt und Amtsenthebung von Bischöfen: Rituelle Handlungsmuster, rechtlich normierte Verfahren, traditionsgestützte Gewohnheiten," in *Vormoderne politische Verfahren,* ed. Barbara Stollberg-Rilinger (Berlin: Duncker & Humblot, 2001), 73–117, at 94; Hägele and Pukelsheim, "The Electoral Writings," 29.

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müller, after having been elected to the city council in 1502, was instantly sent home since his political views did not conform with those of the majority.[58]

Generally, a citizen was a member of a guild and there he had the right to vote; the guilds provided a kind of districting of the total electorate based on social or economic indicators.[59] The guild elected a Council of Twelve, which then elected the Grosse Rat, which finally elected the Kleine Rat. Thus, a candidate had to pass through a sequence of elections before he was elected a member of the Kleine Rat. These sequential elections secured a high degree of continuity for the hierarchical structure of medieval society.[60]

The wiser-part principle, as a higher-level corrective of lower-level decisions, loses its meaning when the election takes place on the highest level itself. Hence, the wiser-part principle does not form part of Cusanus's system for the college of prince electors,[61] nor does it apply to the election of the pope through the college of cardinals. This still leaves the possibility that among the members of the electoral college, one elector would claim a greater weight for his vote than he is willing to concede to the votes of the others. Formally this does not apply to the college of prince electors, as the wording in the *Golden Bull* leaves no doubt that the electors were considered equal as far as the voting procedure was concerned.[62] Whether this principle was carried through in practice, we do not know; the secrecy provisions emphasized so much by Cusanus would have provided a procedural aid to implement equality of the votes. As for papal elections, it took a couple of centuries before the votes of all cardinals were considered equal.[63]

The Hildesheim Edict

Meuthen conjectures that, shortly after the Salzburg Avisament, Cusanus authored the edict that today is kept in Hildesheim.[64] In the electoral system that is sketched in the Hildesheim Edict, Cusanus favored a positive selection strategy. He did not seem to be concerned that, while a negative selection strategy keeps the elector anxious to proceed to the better and end with the best, the positive selection

58. Rogge, "Ir freye wale," 263.

59. Peter Geffcken, "Zünfte," in *Augsburger Stadtlexikon,* ed. Günther Grünsteudel, Günter Hägele, and Rudolf Frankenberger (Augsburg: Perlach, 1998), 949–50.

60. Rogge, "Ir freye wale," 275.

61. Watanabe, *The Political Ideas of Nicholas of Cusa,* 156.

62. Johannes Helmrath, "Rangstreite auf Generalkonzilien des 15. Jahrhunderts als Verfahren," in *Vormoderne politische Verfahren,* ed. Barbara Stollberg-Rilinger (Berlin: Duncker & Humblot, 2001), 139–73, at 153.

63. Horst Fuhrmann, *Einladung ins Mittelalter* (Munich: Beck, 1987), 135–50; Josep M. Colomer and Iain McLean, "Electing Popes: Approval Balloting and Qualified-Majority Rule," *Journal of Interdisciplinary History* 29 (1998): 1–22, at 8.

64. Meuthen, "Modi electionis," 9; AC 1, 3a, no. 1002.

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strategy could produce a premature decline of attention, in that the elector may lose interest in identifying the candidates who rank third, fourth, or even lower.

There are other differences to the system for the election of the king, in that each paper ballot now contains the names of all candidates. The electors receive the paper ballot on the eve of the election day, so that overnight they may contemplate their decision. Cusanus even suggested that they use the night to consult with other people on the candidates' qualifications. When the electors reconvene on election day, they drop their ballots into an empty sack at the entry of the chapter hall. The instructions for the municipal elections in Augsburg were similar, in that the electors, after having had the ballots filled in by a scribe in a side room, dropped them into an urn upon returning to the convention hall.[65]

In the Hildesheim system, the electors are asked to indicate the rank scores by a particular number of dots next to the candidate's name. The evaluation of the ballots is carried out by a scribe (*scriba*) with his abacus tablet (*tabula calculatoria*). He writes down the names of the candidates and places as many calculus stones or pennies (*calculus sive numerales denarios*) next to it as are shown by the number of dots marked.[66] Since, with ten candidates, each elector has fifty-five rank scores at his disposal, with twenty electors the scribe would have to allocate 1,100 stones on his board. If he manages them successfully, all he needs to do at the very end is to count the number of stones for each candidate. The computista in the system for the election of the king needed to have more advanced skills, in having to add numbers rather than to count stones.

Borda and Condorcet

In conclusion, we find that Cusanus can justifiably claim originality of his system for the election of the king, the most striking new idea being the assignment of rank scores to each candidate. Llull's system is a different one, based on a tournament of pair-wise comparisons.

Strangely, though, the political science and social choice literature has largely ignored the contributions of Cusanus and Llull, instead attributing their electoral systems to Borda and Condorcet. There is no indication that Borda exscribed his electoral system from Cusanus or Condorcet from Llull. And, admittedly, Borda and Condorcet, who lived and died during the French Revolution, are closer to today's researchers than such medieval figures as Cusanus, let alone Llull.[67]

65. Rogge, "Ir freye wale," 255. 66. AC 1, 3a, no. 1002, l.36–39.

67. It is only in recent years that the medieval roots of a formal approach to electoral systems are increasingly acknowledged: McLean and London, "The Borda and Condorcet Principles"; McLean and London, "Ra-

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Thus, the topic of electoral systems has caught the attention of authors of a very diverse provenance: the German philosopher and church politician Cusanus, the French technocrat Borda, and the Catalan poet and religious writer Llull, as well as the French encyclopedist Condorcet. While the rich history of the subject is mirrored only insufficiently by naming the electoral systems after Borda and Condorcet, we may view these misnomers as just another instance of Stigler's Law of Eponymy: "No scientific discovery is named after its original discoverer."[68] The author names the law after himself only to modestly indicate that he did not discover it. In the same vein it may be preferable to let the political science literature speak of the *Borda system* and the *Condorcet system,* in order to leave sufficient space for Cusanus and Llull to be acknowledged as the true discoverers.

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mon Lull"; Meuthen, "Modi electionis"; Dan Simon Felsenthal and Moshé Machover, "After Two Centuries, Should Condorcet's Voting Procedure Be Implemented?" *Behavioral Science* 37 (1992): 250–74; McLean and Urken, *Classics;* Josep M. Colomer, *Political Institutions—Democracy and Social Choice* (New York: Oxford University Press, 2001).

68. Stephen M. Stigler, "Stigler's Law of Eponymy," in *Science and Social Structure: A Festschrift for Robert K. Merton* (New York: New York Academy of Science, 1980), 147–57.

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12

Conciliarism at the Local Level

Florence's Clerical Corporation in the Early Fifteenth Century

DAVID S. PETERSON

Early-fifteenth-century Florence was brimming with creative energy. The innovations of artists like Masaccio, Donatello, Ghiberti, and the architect Brunelleschi, whose cupola crowned the Florentine cathedral, put the city and its churches at the forefront of the early Italian Renaissance. After Florence's victory over its rival, despotic Milan, in 1402 the city's "civic humanist" chancellors Coluccio Salutati (1331–1406) and Leonardo Bruni (1369–1444) extolled the Florentines' creative energies and virtue as the fruit of liberty (*libertas*) made possible by the city's system of republican government. In these same years Florence was also involved in the innovations that were taking place in church government. Cardinal Piero Corsini (d. 1405) had been among those who precipitated the papal schism in 1378 by breaking with Pope Urban VI to elect Pope Clement VII; but he quickly proposed submitting Urban's disputed election to the judgment of a church council. As the schism wore on, Chancellor Salutati called repeatedly for a church council to resolve it, and Florence in fact hosted the first effort to do so, the Council of Pisa (1409). Subsequently it helped finance the Councils of Constance, Basel, and, of course, Ferrara-Florence (1438–39).

In this environment of artistic innovation, republican self-confidence, and engagement with conciliar efforts to end the schism, the Florentine clergy undertook a remarkable constitutional innovation of their own.[1]

1. This chapter revisits material from several previous articles: David S. Peterson, "Florence's

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In 1415 the Council of Constance issued the decree *Haec sancta,* declaring itself to be the legitimate representative of the sovereign community of the faithful and therefore superior to popes. Shortly thereafter the Florentine clergy drew up an extraordinary manifesto, the "Synodal Constitutions of the Florentine Clergy" (*Constitutiones sinodales cleri florentini*),[2] that is remarkable for three reasons. First, drawing on the conciliarist Francis Zabarella's (1370–1417) ecclesiology of the whole church, the constitutions' authors applied conciliar principles at the local level by proposing the creation of a clerical government encompassing the secular clergy of the entire Florentine diocese that challenged the hierarchical authority of Florence's bishop, Amerigo Corsini (r. 1411–35; after 1419 archbishop). The clergy would be represented by a council of sixty-six members, the "Great Council" (*maius concilium*), for which the clerical constitution claimed synodal authority. Second, into this conciliar scheme the clergy incorporated features of Florentine republican practice as well. The constitution apportioned representation to different constituencies of the clergy based on federative principles that were a feature of the republican system of government celebrated by Leonardo Bruni in his "Panegyric to the City of Florence" (*Laudatio urbis florentiae,* 1403–4). The clerical constitution is noteworthy not only for its fusion of conciliar and republican forms, but for the speed with which the clergy were able to bring them together. This indicates, finally, that ecclesiastical conciliarism and Florentine republicanism shared a common basis in corporate legal principles that were already broadly familiar to the commonality of the Florentine clergy at the local level.

Conciliarism and Florentine republicanism were long pursued as separate topics, the one pertaining to medieval church government, the other to Renaissance humanism.[3] There were, indeed, some significant differences between them. Florentine humanists wrote within a rhetorical tradition that found its inspiration in Cicero and its historical point of reference in republican Rome. Conciliarists instead worked within scholastic traditions of canon law and theology and directed their historical concerns to the primitive church (*ecclesia primitiva*) of the

universitas cleri in the Early Fifteenth Century," *Renaissance Studies* 2 (1988): 185–96; idem, "Conciliarism, Republicanism, and Corporatism: The 1415–1420 Constitution of the Florentine Clergy," *RQ* 42 (1989): 183–226; idem, "Electoral Politics and the Florentine Clergy: A Meeting of the *Maius Concilium* in 1424," *Renaissance Studies* 5 (1991): 359–97; and idem, "An Experiment in Diocesan Self-Government: The *universitas cleri* in Early Quattrocento Florence," in *Quaderni di storia religiosa,* ed. Giuseppina de Sandre Gasparini et al., vol. 4, *Il prete tra individualità e solidarietà* (Verona: Cierre, 1997), 195–220. I thank the editors for their permission to reuse some of this material.

2. Published in Richard C. Trexler, *Synodal Law in Florence and Fiesole, 1306–1518,* Studi e testi 268 (Vatican City: Biblioteca Apostolica Vaticana, 1971), 349–71, hereafter cited as CF. Trexler's analysis is on 78–86.

3. See James Hankins, "The 'Baron Thesis' after Forty Years and some Recent Studies of Leonardo Bruni," *Journal of the History of Ideas* 56 (1995): 309–38; and, for the historiography of conciliarism, the chapters by Francis Oakley and Giuseppe Alberigo in this volume.

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first centuries A.D. But the ideas of Florentine "civic humanists" grew out of an antecedent tradition of Italian republican thought that ran back to rhetoricians and scholastic thinkers of the thirteenth century.[4] And the church was scarcely aloof from but rather intimately involved in the political affairs of Renaissance Italy.[5] It is thus not entirely surprising to find that the Florentine clergy were able to weave together conciliar and republican principles to form a representative diocesan government of their own.

Both Florentine humanists championing their city's republican ideals and church reformers advancing a conciliar solution to the schism argued that legitimate government was based on consent, whether it be that of the community of the faithful (*congregatio fidelium*) or of the Florentine people (*popolo fiorentino*). Just as conciliarists envisioned a balance of authority between a Roman church consisting of pope and cardinals, and a council representing the whole church, the Florentines celebrated a system that distributed executive powers to their city's priors and their advisory colleges, and legislative controls to its councils. Both systems were predicated on the belief that government by collective bodies, broadly representative of their constituents, were more legitimate and, importantly, more efficacious than systems in which authority emanated downward from a single leader. Conciliarists located the church's inerrancy in the whole body of its members, and therein also the forces for its spiritual regeneration. Florentine humanists argued that their citizens' participation in republican government instilled in them those virtues that made Florence superior to rival cities.

Conciliar reformers and Florentine republicans alike were forced by their circumstances to advance arguments against one-man rule. Responding to the immediate problem of the schism, but more broadly to the monarchic tradition of papal government that had preceded it, conciliarists found an alternate source of the church's sovereignty in the community of the faithful represented by a general council. Florentine political theorists, shaken by the city's "War of the Eight Saints" against the papacy (1375–78), the Ciompi Revolt (1378), and war with despotic Milan (1390–1402), justified their system, and incited the courage of their citizenry, by proclaiming the superiority of republican liberty to despotism. There were important contacts between these groups as well. Leonardo Bruni

4. Quentin Skinner, "Ambrogio Lorenzetti: The Artist as Political Philosopher," *Proceedings of the British Academy* 72 (1986): 1–56; and James M. Blythe, "'Civic Humanism' and Medieval Political Thought," in *Renaissance Civic Humanism: Reappraisals and Reflections,* ed. James Hankins (New York: Cambridge University Press, 2000), 30–74.

5. David S. Peterson, "Out of the Margins: Religion and the Church in Renaissance Italy," RQ 53 (2000): 835–79.

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served in the chancery of Gregory XII and accompanied John XXIII to the Council of Constance. The conciliarist Francis Zabarella taught at Florence's university (the *studio fiorentino*), served briefly as bishop of Florence (1410), and was in fact "Cardinal of Florence" at the time of the council.

In developing their republican and conciliar views of government, humanists and canonists alike were responding to a common fund of concepts. Conciliar thought and Florentine republican institutions shared roots in the corporation theories of the twelfth and thirteenth centuries. Medieval corporation theory located sovereignty—the source of legitimate legal authority to govern a political community—in a corporation (*universitas*) of its members, and provided for a system whereby these could delegate specific powers to proctors, syndics, or procurators to represent them. By the late Middle Ages, the universitas had become a pervasive juridical construct deployed by a variety of European communities to bind themselves in self-governing associations to address common political, economic, and religious concerns.[6] It was a characteristic feature of Italian guild and communal government, and was at the core of Florentine political institutions that Bruni, in his republican theorizing, was both championing and reshaping to accommodate an emerging ideal of political consensus.[7] Corporation theory had also been applied at many levels of the church, from the college of cardinals to monastic orders, universities, cathedral chapters, confraternities, and parishes: its use by conciliarists to resolve the schism set it into high relief.[8]

The Florentine clergy were inspired to write their constitution by the failure of their bishops during the schism to shield them from the abuses both of the weakened lines of Roman, then Pisan popes dependent on Florentine support, and of the Florentine government, which exploited papal weakness to extend its control over the clergy of its territory. Just prior to the schism, the Florentine government had carried out massive expropriations of church property to finance its "War of the Eight Saints" against Pope Gregory XI (r. 1370–78); restitution was not completed until the mid-fifteenth century.[9] Meantime Florence passed a se-

6. The basic surveys are Pierre Michaud-Quantin, *Universitas: Expressions du mouvement communautaire dans le Moyen-Age latin* (Paris: Vrin, 1970); and Jean Gaudemet, *Le gouvernement de l'Eglise a l'époque classique,* vol. 2, *Le gouvernement local* (Paris, 1979).

7. John M. Najemy, *Corporatism and Consensus in Florentine Electoral Politics, 1280–1400* (Chapel Hill: University of North Carolina Press, 1982).

8. Brian Tierney, *Foundations of the Conciliar Theory: The Contribution of the Medieval Canonists from Gratian to the Great Schism* (Cambridge: Cambridge University Press, 1955).

9. David S. Peterson, "The War of the Eight Saints in Florentine Memory and Oblivion," in *Society and Individual in Renaissance Florence,* ed. William J. Connell (Berkeley: University of California Press, 2002), 173–214.

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ries of laws regulating benefices in its territory, and popes and the republic alike imposed an onerous succession of taxes on the clergy. In 1415 the Florentines reissued much of the anti-ecclesiastical legislation of the fourteenth century in a new compilation of their statutes.[10] Although many corporate religious bodies, including fraternities, monasteries, and hospitals, enjoyed special financial privileges, the secular clergy were left unprotected. Under these circumstances, they determined to form a corporate government of their own.

The authors of the clerical constitution envisioned a corporation comprising a council, an executive, and an advisory college, officers of which would be selected by a system meant to assure equal representation at all levels of the corporation to eleven basic constituencies of the diocesan clergy. Executive authority was vested in eleven procurators (*procuratores*), each chosen by a system of drawings from one of the eleven clerical constituencies. Five were to come from the urban clergy, the baptismal parish (*plebatus*) of St. John (San Giovanni). One of these would be drawn from the cathedral canons, another from the city's other collegiate churches, one would be a prior, and two would be parish rectors. Of the six procurators representing the rural clergy (*clerus extrinsicus*), four were to be either *pievani* (heads of *pievi,* baptismal parishes) or priors, and two would be simple parish priests, drawn evenly from both sides of the Arno River, which bisected the diocese. The procurators would be assisted by an advisory college of eleven counselors (*consiliarii*), chosen by the same methods, and procurators and counselors alike would be members of a council of sixty-six (*del 66*), or "Great Council,"whose other forty-four members would likewise be drawn to meet the same criteria of rank and geography.[11] The purpose of the corporation was essentially defensive, for these officers were empowered to appoint lawyers, notaries, treasurers, and other officials to protect the clergy from communal, papal, and episcopal abuses.

Although the right to initiate legislation was reserved to the procurators, final approval of all laws and fiscal measures lay with the Great Council, in which the constitution's authors explicitly located the authority of the corporation:

through it the whole corporation of the clergy [*universitas clericalis*] of the said city and diocese will be governed and led in future. And who[se members], in everything, and by all means, will represent the entirety [*universum*] of the aforesaid clergy. And who may be

10. David S. Peterson, "State-Building, Church Reform, and the Politics of Legitimacy in Florence, 1375–1460," in *Florentine Tuscany: Structures and Practices of Power,* ed. William J. Connell and Andrea Zorzi (New York: Cambridge University Press, 2000), 122–43.

11. On the constituencies of the procuratores, CF 1, p. 349; on the counselors, 2, p. 350; on the council, 10, p. 361, lines 7–15.

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and are fully empowered to do whatever the universitas or general synod of the aforesaid city and diocese can and may do. . . . Destroying and annulling [*sic*] every authority and power [*balìa*] that anyone might have claimed for themselves by whatever name in the governance and rule of our aforesaid clergy, except insofar as it is attributed to them in the present constitution. For we intend the aforesaid council of sixty-six, and no one else under any guise, to stand before [*preesse*] our clergy, with every form of power set forth above.[12]

This assertion echoes the famous second and third articles of the conciliar decree *Haec sancta.* Just as the Council of Constance declared itself to be "legitimately congregated, making a general council representing the catholic church militant . . . to which anyone of whatever status or dignity, even if it be papal, is bound to obey,"[13] so the authors of the Florentine constitution declared the council of sixty-six to be the supreme authority in the governance of the secular clergy. *Haec sancta* was issued on April 6, 1415, and the constitution of the Florentine clergy was drawn up within just a few years.

But how could the clergy have absorbed the dramatic principles of Constance so quickly? *Haec sancta* was the culmination of a debate on church government that had been ongoing for half a century, and among its principal framers was Francis Zabarella, "Cardinal of Florence."[14] Though Paduan by birth, Zabarella had come to Florence in 1383, serving Bishop Acciaiuoli as *pievano* of the wealthy collegiate parish (*pieve*) of Impruneta and as vicar-general, assisting in the restitution of clerical property appropriated during the "War of the Eight Saints."[15] He lectured at the *studio fiorentino* from 1385 to 1391, when he returned to Padua. He attended the Council of Pisa and supported John XXIII, who in turn made him bishop of Florence in July 1410 and "Cardinal of Florence" in June 1411. By this time Zabarella had established himself as a leading spokesman for conciliarism. As early as 1402, he had written his commentary on the five books of the

12. Ibid., 10, p. 360, line 30–p. 361, lines 1–4, 18–23, "quo mediante tota universitas clericalis dicte civitatis et diocesis gubernetur in posterum atque ducatur[. Quique] in omnibus et per omnia representent universum clerum prefatum[. Et] qui possint et valeant id totum et quicquid posset et potest universitas sive sinodus generalis iam dicte civitatis et diocesis. . . . Cassantes et annullantes omnem auctoritatem et baliam quam sibi vendicassent aliqui, quocunque nomine censeantur, in gubernerio et regimine nostri cleri prefati, nisi quatenus presentium constitutionum vigore eis competat et atributum sit[. Cum] intendamus prefatum consilium del 66, et non alium vel alios quovis nomine nuncumpentur, preesse gubernerio nostri cleri cum omnimoda potestate qua supra."

13. COD, 409, lines 22–25, "legitime congregata, generale concilium faciens, et ecclesiam catholicam militantem repraesentans . . . cui quilibet cuiuscumque status vel dignitatis, etiam si papalis exsistat, obedire tenetur."

14. Thomas Morrissey, "The Decree *Haec sancta* and Cardinal Zabarella," AHC 10 (1978): 145–76.

15. August Kneer, *Kardinal Zabarella: Ein Beitrag zur Geschichte des grossen abendlÿaundischen Schismus* (Münster: Theissing, 1891). Notices of his activity as vicar-general are in Florence, Archivio di stato (ASF), *Notarile antecosimiano* (NA) 7448 (Ser Filippo di Ser Lorenzo da Luciano, 1376–1414).

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Decretals, and in three stages running over the years 1403, 1405, and 1408 he had elaborated his commentary on X. 1. 6. 6 into the widely circulated *Treatise on the Schism* (*Tractatus de schismate*).[16]

Even in the earliest redaction of this he had argued that a general council, representing the corporation of the whole church, should be convened to judge the claims of the contending popes.[17] To support his case he cited the example of Bishop Symmachus and, in so doing, conflated the terms *synod* and *council,* arguing that "in such a process, the judgment of the synod is to be followed."[18] Though not uncommon in canonistic texts, such terminology would have been redolent with possibilities for the Florentine clergy. Finally, in this first version of the *Tractatus,* Zabarella had already extended his views on the role of church councils beyond the problem of ending the schism to argue that councils should play a central and continual role in governing the church. Had they continued to be convened regularly, as in apostolic times, the schism would not have broken out in the first place, nor would the church be in such dire need of reform.[19] In later redactions of the *Tractatus,* Zabarella responded to criticisms by developing a more comprehensive conciliar ecclesiology, drawing on the Roman law maxim "that which touches all should be approved by all"[20] and the corporation law developed by the decretalist to assert that "the pope holds the plenitude of power . . . not alone but as the head of a corporation, such that that power is in the corporation as in its foundation."[21] The council was therefore superior to the pope in matters of faith and could correct him.[22]

Thus, well before Constance Zabarella had set forth a scheme of conciliar government grounded in principles of corporation theory that could be applied, as Zabarella used them, to the church as a whole, but which also derived from (and might be readapted to) government at the diocesan level. The wording of the Florentine constitution indeed suggests that the council of sixty-six was an innovation.[23] But neither corporate principles themselves, nor certainly the idea of

16. Simon Schardius, *De iurisdictione, auctoritate et praeeminentia imperali ac potestate ecclesiastica* (Basel: Joh. Oporinus, 1566), 688–711, hereafter cited as *Tractatus.* My analysis follows Tierney, *Foundations,* 220–37.

17. *Tractatus,* 688.

18. Ibid., "Nam in tanto negotio synodalis arbitrii est sequenda praescriptio."

19. Ibid., 694.

20. Ibid., 702, "ubicunque tractantur cause quae eos [the faithful] tangunt, quod debeant interesse, quia quod omnes tangit ab omnibus approbari debet."

21. Ibid., 703, "id quod dicitur, quod papa habet plenitudinem potestatis, debet intelligi non solus, sed tanquam apud universitatem, ita quod ipsa potestas est in ipsa universitate tanquam in fundamento, et in papa tanquam principali ministro, per quem haec potestas explicatur."

22. Ibid., "potestatis plenitudo est in papa, ita tamen quod non errat, sed cum errat, hoc habet corrigere concilium."

23. CF 10, p. 360, lines 28–29, "pro meliori et salubriori regimine cleri nostri, deinceps in clero et universitate cleri prefati sit et esse debeat in perpetuum unum consilium."

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the clergy convening in synods, were entirely new. Portions of the constitution in fact suggest that some officers of the clerical corporation had already been serving for some time.[24] Before ascribing too much weight to the influence of Zabarella alone, the novelty of the *Constitutiones sinodales* themselves needs to be more precisely defined.

The Florentine clergy in fact had centuries of experience meeting in a variety of corporate bodies. The most venerable of these were the cathedral chapter and its rival, the collegiate church of San Lorenzo. Among the city's eighty-three other urban parishes, a dozen were served by collegiate churches that had embraced the common life (*vita comune*) when Florence threw its support behind the Gregorian reforms of the eleventh century. In the countryside, sixty *pievi,* baptismal parishes served by colleges of priests characteristic of northern Italy, were supplemented by an additional twenty-five lesser collegiate parish churches. The late Middle Ages brought the creation of new corporate bodies, confraternities: Florence's tax survey (*Catasto*) of 1427 listed 104 such *compagnie,* along with 114 hospitals and 118 monasteries, friaries, and hermitages.[25] Secular clergy as well as religious played important liturgical and administrative roles in these self-governing bodies and were sometimes members themselves. Indeed, since the twelfth century members of the urban clergy also formed their own confraternity, the Company of Jesus Pilgrim (*Compagnia di Gesù Pellegrino*), and by the early fifteenth century lesser confraternities of the clergy were operating in the city and countryside as well.

Such confraternities no doubt helped prepare Florence's clergy to participate in the fifteenth-century corporation described by the *Constitutiones sinodales.* But they were not its direct institutional progenitor. Although in many parts of northern Italy similar clerical confraternities (*confraternitates, frataleae, scholae, congregationes*) had advanced from offering their members religious consolation and material self-help to roles in apportioning (and collecting) tithes, and to a share in other aspects of diocesan administration, none appears to have gone so far as to create a standing council rivaling the authority of the bishop, or to have developed such a complex scheme of representative government as that envisioned by the Florentine *Constitutiones sinodales.*[26] This was true of Florence's clerical confrater-

24. The procurators were to govern "as has been the usage to now" (*prout iam diu extitit usitatum*) (ibid., 1, p. 349, lines 12–13); their counselors numbered "presently eleven" (*Sintque dicti consiliarii numero XI presentialiter*) (2, p. 350, line 7).

25. ASF, *Catasto* 195; David S. Peterson, "The Cathedral, the Florentine Church, and Ecclesiastical Government in the Early Quattrocento," in *La cattedrale e la città: Saggi sul duomo di Firenze: Atti del VII centenario del duomo di Firenze,* ed. Timothy Verdon and Annalisa Innocent, 5 vols. (Florence: EDIFIR, 2001), 1:55–78.

26. The Paduan *fratalea cappellanorum* provides an interesting set of contrasts, however. See particularly the statutes of 1285 and 1400, published by Antonio Rigon, *Clero e città: "Fratalea cappellanorum," parroci, cura d'anime*

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nity of Gesù Pellegrino as well: from 1311, when Bishop Antonio d'Orso permitted the confraternity to build and maintain its own hospital, the confraternity's activities centered on providing hospitalization, burial, and Masses for its exclusive membership.[27] It resembled the fifteenth-century corporation insofar as its executive prior was assisted by counselors. But it never developed a collective executive or representative assembly, strictly forbade rural clergy from joining, and its meetings can be tracked separately over the years that the corporation described in the *Constitutiones sinodales* was in operation.

Assemblies of the clergy were also convoked by bishops, of course, generally for one of two basic purposes. First, over the course of the fourteenth century Florentine bishops promulgated a series of episcopal constitutions in diocesan synods. These reflect their own hierarchical vision of their legislative authority. Building on the disciplinary agenda of the Fourth Lateran Council (1215) and rubrics of the *Decretals* (1231) concerning clerical morals, the disposition of benefices and patronage rights, and the defense of ecclesiastical immunities, bishops repeatedly reminded their clerical "subjects" (*subditi*) of their episcopal lordship (*dominium*) over church property, and of their ordinary jurisdiction in the diocese.[28] They never treated the clergy as forming a corporation capable of granting or withholding consent. At most, bishops sought the counsel (*consilium*) and assent (*assensus*) of their cathedral canons, while the clergy might be allowed only to approve what had been set before them.[29]

Second, however, bishops increasingly turned to other clerical assemblies to

in Padova dal XII al XV secolo (Padua: Istituto per la Storia Ecclesiastica Padovana, 1988), 275–97, and the author's comments on 70–80, 165–75. The literature on clerical confraternities is reviewed by Richard C. Trexler, "Diocesan Synods in Late Medieval Italy," in *Vescovi e diocesi in Italia dal XIV alla metà del XVI secolo: Atti del VII convegno di storia della Chiesa in Italia* (*Brescia, 21–25 settembre 1987*), ed. Giuseppina de Sandre Gasparini et al., 2 vols. (Rome: Herder, 1990), 1:295–335.

27. Arnaldo d'Addario, "Il problema *de vita et moribus clericorum* nella diocesi di Firenze: Legislazione canonica e civile, e iniziative spontanee fra XIV e XVI secolo," in *Chiesa e società dal secolo IV ai nostri giorni: Studi storici in onore del P. Ilario da Milano,* ed. A. Erba et al., 2 vols., Italia Sacra 31 (Rome: Herder, 1979), 2:383–414.

28. Record of the earliest convocation is that of Bishop Ranieri in 1073: Giovanni Lami, *Sanctae ecclesiae florentinae monumenta,* 3 vols. (Florence: Deipara, 1758), 2:1011–12. The constitutions of Bishops Lottieri della Tosa (1305), Antonio d'Orso (1310), Angelo Ricasoli (1372), and Onofrio Visdomini (1393) are published in Trexler, *Synodal Law,* 6–8, 227–89, 297–305, and 307–45. Those of Bishops Francesco da Cingoli (1327) and Angelo Acciaiuoli (1346) are virtually identical. The former was published by Ildefonso Frediani da in *Etruria Sacra Diocesis Florentina* (Florence: Apud Caietanum Camblasium, 1782), 1–35, the latter in Mansi, 26:25–70. Cesare Guasti and Alessandro Gherardi published Bishop Cingoli's constitution, with notes to Acciaiuoli's modifications, in *I capitoli del comune di Firenze,* 2 vols. (Florence, 1893), 2:4–56.

29. All fourteenth-century bishops acknowledged consulting with their canons in preparing their constitutions. Bishop d'Orso also concluded his constitution with the bald declaration that it had been *publicate et approbate MCCCX* (Trexler, *Synodal Law,* 289, line 32), while Bishop Cingoli stated that his *publicate fuerunt in synodo coram capitolo consentiente et clero florentino approbante* (Ildefonso, 35; Guasti and Gherardi, 47). Bishop Acciaiuoli appears to have dropped the clause (Mansi, 26:70), but Bishop Ricasoli published his *in presentia et conspectu multorum hominum clericorum et laicorum civitatis florentie* (Trexler, *Synodal Law,* 304, lines 13–14).

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handle aspects of diocesan finance. Here the Fourth Lateran Council had dropped the language of synods to assert that, in matters of taxation, bishops, "along with the clergy," might weigh requests from the laity.[30] Though canon lawyers made little of the implications of this for adding a consensual element in diocesan government,[31] bishops found the convocation of lesser clerical bodies useful in treating the diocese's increasingly complex fiscal affairs, and among these bodies a clerical corporation did emerge, centered in the clergy of the pieve (*plebatus*) of San Giovanni. Though its constitution is lost, its meetings demonstrate that it lacked a fixed representative council and was dominated by the upper clergy. More important, it was harnessed to episcopal authority as a taxative body, and subordinate to the bishop in synod. Thus, in 1386, Bishop Bartolomeo Uliari, along with four "procurators and defenders" of the corporation (universitas) of nonexempt clergy "of the city of Florence and the pieve of San Giovanni," convoked an assembly of thirty-eight clerics that elected ten syndics, including Bishop Uliari himself, to contract a loan of 1,300 florins as part of a subsidy for Pope Urban VI on his visit to Lucca.[32] In this instance, the consent of the corporation served to bind the clergy to the bishop's fiscal leadership, rather than limit it. In 1393, Bishop Onofrio Visdomini in turn convoked members of the "clergy and corporation of the Florentine clergy from the pieve of San Giovanni," not to acquire their consent, but to "intimate, notify, and publish" before them his constitutions.[33] Here, members of the clerical corporation simply affirmed the ordinary jurisdiction of the bishop in his synod.

But in the decade leading up to Constance, popes, bishops, and the Florentine republic itself turned to the clergy for political support. In 1405, Pope Innocent VII instructed bishops Jacopo Palladini of Florence and Jacopo Altoviti of Fiesole to convoke a provincial synod to rally support against the Avignon pope Benedict XIII.[34] In 1407, the urban clergy met to elect syndics to defend Bishop Palladini himself from heresy charges in Rome.[35] And in February 1409, the Florentine

30. IV Lat. 46, COD, 255, line 8 (X.3.49.7), "episcopus simul cum clericis." The council also set limits to the taxative powers of bishops over clergy: e.g., IV Lat. 34, COD, 251 (X.3.49.8).

31. Because prior approval was required from the pope, discussion turned to what constituted reasonable circumstances for a request.

32. ASF, NA 7448 (Ser Filippo di Ser Lorenzo da Luciano, 1376–1414), fols. 28–31 (December 30, 1386), here fol. 28r, "cleri florentini non exempti, videlicet civitatis Florentie et plebatus Sancti Johannis Florentie."

33. Trexler, *Synodal Law,* 339, lines 10–11, "clero et clericis universitatis cleri florentini de plebatu Sancti Johannis," and line 17, "intimavit, notificavit, et publicavit."

34. Vatican City, Archivio Segreto Vaticano (ASV), *Registra Vaticana* (RV), 333, fols. 234v–236r (April 23, 1405).

35. Florence, Archivio Arcivescovile (AAF), *Beneficiali,* B, fols. 325r–v (November 9, 1407). The assembly comprised thirty-nine priors, canons, and rectors; they did not identify themselves as the *univeritas* of San Giovanni.

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republic itself turned to an assembly of the clergy for support. The preceding autumn Lorenzo Ridolfi, a protégé of Zabarella who served Florentine bishops from Onofrio Visdomini (r. 1391–1400) to Amerigo Corsini, was among several lawyers, including Stefano Buonaccorsi and Filippo Corsini, who had assured the Florentine priors of the licitness of withdrawing obedience from Gregory XII. Gregory's manifest refusal to end the schism by abdicating the papacy as he had promised to do at his election rendered him ipso facto a schismatic heretic and therefore no true pope.[36] On February 7, 1409, Ridolfi delivered a similar sermon to seventy clerics, lawyers, theologians, and other clergy who had been assembled in the episcopal palace to sanction the republic's withdrawal of obedience from Gregory.[37]

These assemblies bolstered the clergy's sense of their importance—and rights—relative to their superiors. Thus in 1412, when Alexander V conceded the Florentines a 100,000-florin tax on the clergy, six clerical procurators, this time acting independently of Bishop Amerigo Corsini, convoked a meeting of the corporation of the pieve of San Giovanni "and the whole Florentine clergy," which elected a special commission (*balìa*) of five members to negotiate terms with the commune.[38] Aiming to expand the scope of their corporation, and its independence of the bishop, the clergy realized that they were moving beyond the terms of earlier constitutions.[39] On August 30, 1414, the clergy's "procurators and defenders," again acting independently of Bishop Corsini, elected Leonardo Bruni to be their representative at the Council of Constance.[40] Shortly thereafter twenty-two officers of the "general synod of the Florentine clergy" (*generalem synodum cleri florentini*), again meeting independently of Bishop Corsini, were empowered to revise the constitutions of the

36. The prior's extensive deliberations are recorded in ASF, *Consulte e pratiche* 39 (January 1408–April 1409), summarized in Lauro Martines, *Lawyers and Statecraft in Renaissance Florence* (Princeton: Princeton University Press, 1968), 289–95; Aldo Landi, *Il papa deposto (Pisa 1409): L'idea conciliare nel grande scisma* (Turin: Claudiana, 1985), 156–57; and Alison Williams Lewin, *Negotiating Survival: Florence and the Great Schism, 1378–1417* (Madison/Teaneck, N.J.: Fairleigh Dickinson University Press, 2003), 153–56. A consilium that Ridolfi delivered to the priors on August 20, 1408, is published in *Schriftstücke zum Pisaner Konzil: Ein Kampf um die öffentliche Meinung*, ed. Johannes Vincke (Bonn: Hanstein, 1942), 122–24. For his biography see Lawrin Armstrong, *Usury and Public Debt in Early Renaissance Florence: Lorenzo Ridolfi and the "Monte Comune"* (Toronto: PIMS, 2003), 7–27.

37. Mansi, 27:425–29. The assembly comprised largely lawyers, theologians, and other religious, but also included three bishops, six cathedral canons, and a pievano. Ridolfi's sermon is in Vatican City, Biblioteca Apostolica Vaticana, *Vaticana Latina* 5608, fols. 188r–202r.

38. ASF, NA 7454 (Ser Filippo di Ser Lorenzo da Luciano, 1386–1462), fols. 1r–4r (October 6, 1412), fol. 1r, "clero et clericis florentini de plebatu Sancti Johannis et totum clerum florentinum." Those assembled identified themselves as representing the "universitatem dicti cleri" on fol. 4. They included four cathedral canons and fifty-two other clerics, principally from the city.

39. Ibid., fol. 4r, "Non obstantibus quibuscumque constitutionibus seu ordinamentis dicti cleri in contrarium quomodolibet disponentibus. Quibus omnibus intelligatur et sit totaliter derogatum."

40. AAF, *Beneficiali* B, fol. 417r (October 30, 1414).

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clergy.[41] It would not be surprising to find that Lorenzo Ridolfi had a hand in their composition.

The title of the *Constitutiones sinodales cleri florentini* by itself represents an innovation, using as it does *clerus* in the genitive, for it indicates that the constitution was not directed from bishop to clergy, but was indeed the clergy's constitution, prepared by the clergy themselves, and the product of a consensual process. The first substantive rubric opens with a platitude of medieval political theory, the notion that a body of members without a head is like a monster.[42] The analogy had its roots in Roman law, and had been deployed by a number of decretalist in discussions of religious bodies, usually to the advantage of the heads of these organizations. But the authors completed the metaphor by asserting that it was the procurators "who are the heads of our clergy."[43] Each swore to serve as a "supporter and protector" (*fautor et protector*) of the clergy "in the manner of a patron" (*more padrono*).[44] But lest any see his role as head (*caput*) in too exalted a light, each acknowledged himself to be a member (*membrum*) of the clergy as well.[45] Normally the procurators enjoyed the right of legislative initiative, but they could not block introduction to the council of a measure that had the support of at least four members of the clergy.[46] Although they were charged with a number of specific executive functions, the constitution reiterated that without the council's consent "nothing can be arranged, adjusted, introduced, abolished or changed in any way."[47]

Unlike earlier (episcopal) synodal constitutions, the *Constitutiones sinodales cleri florentini* embody all of the defining principles of corporation theory that had been worked out by the canonists of the thirteenth century. The powers of the community rested in its members, represented by the council of sixty-six. From among its members the community chose procurators to exercise these powers for limited terms, but the powers themselves were delegated rather than transferred to them, being always the powers of the community as a whole. Unlike earlier clerical corporations, this one was to be diocesan in scope and sovereign in the affairs of the clergy.

41. An anonymous page of notes in the vernacular for the upcoming synod, undated (and unpaginated), is contained in ASF, NA 9161 (Bartolo di Donato Giannini da Paterno, 1404–1413) between documents dated April 1 and 15, 1407.

42. CF, 1, p. 349, lines 7–8.

43. Ibid., p. 349, line 13, "Qui sint capita cleri nostri."

44. Ibid., 4, p. 350, line 23; ibid., 7, line 24.

45. Ibid., 4, p. 350, line 24.

46. Ibid., 13, pp. 363–64.

47. Ibid., 10, p. 361, lines 16–17, "nil possit vel valeat disponi, ordinari, induci vel cassari vel quomodolibet alterari."

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The idea that the power of a corporation resided in its members and could be delegated in a limited fashion to proctors acting for the community had first been applied systematically to ecclesiastical bodies by the thirteenth-century decretalist in examining articles of the *Decretum* and *Decretals* that seemed to limit a bishop's freedom of action. These texts often spoke broadly of the relations between bishops and their clergy.[48] But the canonists had deployed them more narrowly to examine the role of the newer, post-Gregorian cathedral chapters as electoral colleges and as councils whose "advice and consent" bishops needed in such matters as the alienation of church property.[49] So long as discussions of ecclesiastical corporation theory remained embedded in this framework, the diocesan clergy could have found little legal justification for carrying their limited corporate endeavors to a direct challenge of episcopal authority.[50] But by applying corporation theory to the church as a whole, Zabarella set the principles themselves into high relief, and *Haec sancta* sanctioned them. This encouraged the Florentine clergy in turn to reapply them at a middle level of church government, that of the diocese. Indeed, Zabarella's own thinking may have been stimulated by the example of clerical convocations in which he had participated as vicar-general of the Florentine diocese.

The creation of the council of sixty-six thus provided not merely a practical instrument for expanding the scope of the clerical corporation, but the basis for a fundamental reordering of the principles of diocesan government. In this, the contribution of Zabarella's ideas on church councils is most evident. Turning to the head of their corporation, however, the clergy did not assign leadership to the bishop and his cathedral chapter, as simple imitation of Zabarella's ecclesiology might have suggested. Zabarella envisioned leadership of the church by a collective body, the Roman church of pope and cardinals, subject to conciliar supervision. The Florentine clergy instead established a collective head (caput) of eleven procurators assisted by eleven counselors. Here they incorporated into their constitution a federative element drawn from a different source, the model of the Florentine republic. The first sentence of the constitution's charge to the procurators states that they were "to be deemed to dispose of as much power and balìa as the lord priors of the guilds of this city."[51]

48. E.g., D. 24 c. 6; C. 10 q. 2 c. 1; C. 12 q. 2 c. 51; C. 15 q. 7 c. 6; X. 3. 10. 4.

49. Tierney, *Foundations,* 106–31.

50. Michaud-Quantin, *Universitas,* 94, found few formally constituted clerical associations, "lorsque la collectivité qu'ils forment n'est pas un élément de la structure même de l'Église."

51. CF, 7, p. 352, lines 12–15, "Cum procuratoribus cleri nostri de iure comuni multum potestatis et balie competere dignoscatur ad instar dominorum priorum artium huius urbis, nos eorum potestatem nullatenus cohartantes sed potius ampliantes, statuimus."

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The Florentine priorate had its roots in a system devised in the thirteenth century whereby the guilds had formed a federation to govern the city. Numbering six members (after 1348, eight), the priors had been placed at the apex of Florence's government in 1282. But the means by which the priorate was linked to the Florentine guilds had been more explicitly defined in the "Ordinances of Justice" (*Ordinamenti di giustizia*) issued under the popular regime of Giano della Bella in 1293.[52] The first rubric of these ordinances drew on the Roman law maxim *quod omnes tangit* to assert: "That is judged to be most perfect which consists of all its parts and which is approved by the consent of them all."[53] The "Ordinances" therefore provided for the legal union of all twenty-one of Florence's guilds and set forth the means by which this federation of corporations was to govern the city.

The system had three objectives. First, it provided that political authority in the city moved upward from the members of the guilds to their consuls, and through the process of selecting the priors from their consuls to the Signoria. Second, it meant to assure that by this means representation would be along corporate lines. Finally, a principle of geographical representation was integrated into this corporate framework as well: every two months the consuls and priors were to select two electoral assistants (*arroti*) from each of Florence's six districts (*sesti*) to aid them in the selection of the next standard-bearer of justice.[54]

The priors functioned as the chief executive magistracy of the commune and were assisted by two advisory colleges, the Twelve Good Men (*dodici buon'uomini*) and the Sixteen Standard-bearers (*seidici gonfalonieri*). Legislation had to pass two councils, that of the People (including the priors, the Twelve, and the Sixteen), and the Council of the Commune. But legislation could be initiated only by the priors themselves.[55]

Just as the priors formed an executive head of the commune, selected to assure the participation of the different guilds and to provide geographical representation throughout the city, so also the *Constitutiones sinodales* stipulated that the procurators were to lead the clergy and to be chosen in a manner guaranteeing representation of the different regions of the diocese, urban and rural, and of the different orders of the clergy, canons as well as parish rectors. In each instance, ex-

52. John M. Najemy, "Guild Republicanism in Trecento Florence: The Success and Ultimate Failure of Corporate Politics," *American Historical Review* 84 (1979): 53–71; and Najemy, *Corporatism,* 17–78.

53. *Ordinamenti,* published in Gaetano Salvemini, *Magnati e popolani in Firenze dal 1280 al 1295* (Florence: Carnesecchi, 1899), 384–492, preface, 385; trans. in Najemy, "Guild Republicanism," 59, "Quonaim illud perfectissimum approbatur quod consistit ex omnibus suis partibus et omnium iuditio comprobatur."

54. Najemy, *Corporatism,* 45–46.

55. Gene Brucker, *Florentine Politics and Society: 1343–1378* (Princeton: Princeton University Press, 1962), 58–62.

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ecutive officers were assisted by advisory groups limited to fixed terms, and they were given the right of legislative initiative and supervision of elections. But in both instances, final legislative authority was vested in councils in which members of the executive also served. The clergy also borrowed or adapted a number of technical procedures from the Florentines, notably the restrictions (*divieti*) applying to officeholders and voting procedures used in the Councils of Florence.[56]

There were some differences between the two systems as well. Unlike Florence's priors, the procurators' right of legislative initiative was qualified by the clergy's right of petition, giving the clerical council more independence than those of Florence. On the other hand, the corporate foundations of the *clerus florentinus* were not as pronounced as those of the Florentine guild system. Although the urban clergy had formed a corporation in the fourteenth century, and in the 1420s the rural clergy also met as a corporation, it is not clear that canons, rectors, and priors formed corporations of their own, as did the individual guilds of the city or the canons of the cathedral. But the important point is that in comparing their procurators to the "priors of the guilds" (*priores artium*), the clergy recalled a system by which a corporation could be formed by drawing together separate constituencies. In the case of Florence these constituencies were the guilds; in the clerical corporation they were the eleven groups represented by the procurators. Indeed, the clerical constitution was actually more rigorous in insisting that these different elements of the clergy would be represented in fixed proportions throughout the system, whereas only briefly under the Ciompi in 1378 had the Florentines attempted to establish quotas for the number of representatives that three groups of guilds might, over time, send to the priorate.[57]

Indeed, conciliar thought reinforced the clergy's commitment to Florence's republican traditions. In his famous "Panegyric to the City of Florence," Leonardo Bruni had praised the scheme of checks and balances by which power was diffused throughout Florence's government, thus thwarting potential tyrants and preserving the city's liberty.[58] The clergy in their constitution appropriated many of the features to which he pointed. Bruni stressed the wisdom of entrusting the executive not to one man but to a priorate of eight members,[59] and the clergy too intended to be led by a caput of eleven procuratores. Bruni noted the value

56. On multiple officeholding: CF, 21, p. 366, line 24–p. 367, line 4; on age and fiscal requirements, 17, p. 365; 15, p. 364.

57. This was the *adequatio membrorum;* Najemy, *Corporatism,* 240–41.

58. Leonardo Bruni, *Laudatio Florentinae Urbis,* in *From Petrarch to Leonardo Bruni: Studies in Humanistic Political Literature,* ed. Hans Baron (Chicago: University of Chicago Press, 1968), 232–63, especially 258–63.

59. Ibid., 259, lines 23–26.

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of attaching to the priorate an advisory body, the Twelve Good Men.[60] The *Constitutiones* provided for eleven *consiliarii* to assist the *procuratores*. Bruni thought it necessary that important decisions taken by the priors be deliberated in the Florentine councils,[61] and the clergy placed final legislative authority in the council of sixty-six. At one point in their constitution the clerical authors explicitly interpolated the language of republicanism into the Christian lexicon by describing the procurators as "those working for the republic."[62]

On the other hand, the clergy specifically located the sovereignty of their corporation in the council of sixty-six. Bruni, though acknowledging the requirement that the priors' decisions be approved in the councils, stressed their "regal power."[63] On this point, the influence of conciliar thought in buttressing the clerical view of the importance of the council is clearly in evidence. Again, Bruni referred to the priorate in his "Panegyric" as the "supreme magistracy" (*supremus magistratus*) of the city. The clergy compared their procuratores more specifically to the "priors of the guilds." The guilds had been the essential elements in Florence's federation of corporations. Thus where Bruni, championing Florence's republican tradition, managed to avoid direct reference to its corporate elements, the clergy, drawing on their own conception of the city's republican tradition, kept the corporate ideal at its center.

This difference was not owing merely to Bruni's recourse to classical rhetorical models. Since the shock of the Ciompi uprising (1378), Florence's leading families had pursued political consensus by subsuming the interests of specific groups within a broader—and vaguer—ideal of the common good (*ben comune*). Although Florentine humanists stressed the importance of citizen participation in government and the nurturing influence of republican institutions on public virtue, they spoke for a regime (*reggimento*) in which corporate institutions were being harnessed to more restricted and, from the viewpoint of the city's elite, more manageable systems that made family alliances and patronage the avenues to political office.[64] The clergy thus reaffirmed in their own constitution precisely

60. Ibid., lines 39–41.

61. Ibid., 260, lines 5–11.

62. The authors prefaced their discussion of the procurators' salaries by observing: "Et quoniam non est obturandum os bovis triturantis, ut inquit apostolus, sed debeant pro republica laborantes premia reportare." CF, 7, p. 357, lines 22–23.

63. Bruni, *Laudatio,* 259, lines 23–24, "Principio enim supremus magistratus, qui quandam vim regie potestatis habere videbatur."

64. Najemy, *Corporatism;* Anthony Molho, "Politics and the Ruling Class in Early Renaissance Florence," *Nuova rivista storica* 52 (1968): 401–20; Ronald Witt, "Florentine Politics and the Ruling Class, 1382–1407," *Journal of Medieval and Renaissance Studies* 6 (1976): 243–67.

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those principles of corporate federatism that the Florentines, in the sphere of communal politics, were accommodating to a vaguer, more Ciceronian concept of republicanism.

The fusion of methods drawn from these two models, that provided by the government of Florence and the vision of church government set forth by Zabarella, depended upon a compatibility that derived from their common bases in Roman law and thirteenth-century corporation theory. Zabarella's contribution had been to show how corporate principles could be expanded to apply up and down the hierarchy of the church. The Florentines had used corporation theories to bring different constituencies together horizontally. The clergy took a step beyond Zabarella and the Florentines alike by emphasizing a principle of representation that was to run from top to bottom of their corporation. Informed by these examples, and drawing on their earlier experiences, they produced a constitution that brought to fruition a quest for self-government that they appear to have been pursuing for at least a century beforehand.

The most ambiguous feature of the constitution is its treatment of the relationship between episcopal authority and that of the clerical corporation. The main purpose of the corporation was to defend the clergy. The procurators were to lead the clergy in resisting new impositions from Rome or Florence.[65] "Lest stronger men inflict injury on the weaker,"[66] the procurators were charged to challenge decisions of the episcopal court, particularly cases involving privation of benefices. Elsewhere, however, the constitution's authors praised Bishop Corsini and promised to support him against enemies in Rome.[67] The claims they advanced for the council challenged episcopal lordship (*dominium*) of the diocese, but features of episcopal jurisdiction (*iurisdictio*), such as the right to approve the constitutions of lesser clerical bodies, went unclaimed. Though the authors proposed convening the council in the episcopal palace, where the bishop might attend, they did not assign him any powers in the corporation, and gave the procurators authority to convene the council elsewhere.[68] At critical points they used language that conflated the powers of the council with those of episcopal synods.[69] These conceptual ambiguities reflect an ambivalence in clerical-episcopal relations that was replicated in practice.

65. CF, 7, p. 353, line 23–p. 354, line 10.
66. Ibid., 18, p. 365, line 11: "ne potentiore viri humiliores iniuriis afficiant."
67. Ibid., 31, p. 371.
68. Ibid., 7, p. 354, lines 29–33.
69. Ibid., 30, pp. 370–71. Noting that canon law required annual convocations of an "episcopal synod" (*sinodus episcopalis*), they argued that because of the inconvenience these caused clergy and laymen alike, hence-

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Down to the mid-1420s, members of the corporation appear to have cooperated with Archbishop Corsini, electing syndics to present the clergy's grievances to Pope Martin V in 1418 and voting a subvention for Corsini's trip to the Council of Siena in 1423.[70] Some assemblies were held in the episcopal palace itself; others were convened nearby in the confraternity of the Misericordia. One of the most illuminating meetings of the *maius concilium* was held on November 15, 1424, and was recorded by the clergy's notary for the year, Ser Antonio di Coluccio Salutati, son of Florence's famous chancellor.[71] Procurators, counselors, and other members of the Great Council met in the numbers and proportions specified by the clergy's constitution. Among their numbers were leading figures in the local ecclesiastical establishment, such as Amerigo de' Medici, provost of the cathedral, and Dino Pecori, Martin V's apostolic collector in Tuscany, as well as clerics from families prominent in Florentine politics, such as Jacopo Visdomini, Rossello Strozzi, and Coluccio Salutati's son, Salutato. The lower clergy were also enthusiastic participants and indeed, owing to absenteeism among some of the upper ranks of the clergy, they achieved in practical numerical terms a slightly higher degree of representation than that provided for by the constitution.

Already, however, efforts to come to terms with a debt of 6,570 florins, the result of taxes imposed on the clergy during the schism, were generating strains both within the corporation and between the clergy and Archbishop Corsini. In true Florentine fashion, the council accepted the procurators' proposal to create a special commission (balìa) to handle the debt. But this effort at self-imposed taxation provoked a rift between urban and rural wings of the clergy, which in 1426 began meeting separately in corporate bodies of their own.[72] Archbishop Corsini, who to this point had been too weak to challenge the authority of the corporation (he was himself being dunned by Pope Martin V for Common Service payments), now sought to exploit the rift by siding with the urban clergy. His strategy led not to a restoration of episcopal power, but produced instead a series of acerbic confrontations with the clergy's procurators on the one hand, and with the apostolic commissioners sent by Martin V to investigate the diocese's fiscal and political problems on the other.

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forth the "said general synod" (*dicta sinodus generalis*) should be convoked every fifth year in a place chosen by the clergy's procurators.

70. ASF, *Fondo diplomatico,* Badia, August 6, 1418, and NA 11031 (Ser Jacopo di Antonio di Jacopo da Romena, 1417–1427), fols. 323r–338v, *Quaternus cleri florentini anni Mccccxxiii,* here fols. 325v–326r (August 27, 1323).

71. It is interpolated into ASF, NA, 7942 (Ser Francesco di Ser Francesco di Giannino da Castrofranco, 1423–1427), fols. 49r–52v (May 10, 1425), published in Peterson, "Electoral Politics," 392–97.

72. Though declaring themselves corporations, both urban and rural clergy convened in mass assemblies, rather than representative councils; Peterson, "Florence's *universitas cleri,*" 192–93.

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The first of these was the *condottiere* Giovanni Vitelleschi, who in 1427 declared Corsini himself obligated for the clergy's debt. There followed a tempestuous exchange and petitions to Rome, which induced Martin V to withdraw his commissioner.[73] Archbishop Corsini promptly sought to exploit this victory by convoking an episcopal synod in the traditional manner.[74] Before a mass assembly he attacked the clergy's procurators and sought to undercut them by addressing a sermon in the vernacular directly to the lower clergy.[75] At the same time he attempted to appropriate corporate principles by citing the tag *quod omnes tangit* and putting his charges against the procurators to a vote. But when the result proved unsatisfactory, Corsini recurred to his hierarchical authority, taking matters into his own hands as "father" of the clergy, and appealing to Martin V that "if well considered, the above measures tend in no small way to the prejudice and damage of the archbishop, the church, and the entire clergy of the city, and to impeding the archbishop's ordinary jurisdiction."[76]

The pope was notably slow to take Corsini's side and instead sent to Florence another commissioner, Niccolò da Mercatello, in 1428. Cautioned by Martin V to handle Florence's "clerical republic" (*rem publicam cleri*) with care,[77] Mercatello convoked an assembly of the clergy which, by 326 to 56 votes, reaffirmed the authority of the clergy's procurators to act for them.[78] Mercatello also found Corsini liable for a portion of the clergy's debt. Petitions again flew to Rome, and now the pope set up a commission of cardinals, including the future Pope Eugenius IV, to study the case. It is unclear what the results were. Martin, in the meantime, suspended the activity of the procurators, and in 1429 Corsini convoked another episcopal synod which, though much less well attended than Mercatello's assembly and by a narrower vote of 200 to 77, absolved Corsini of his debts.[79]

This removed an immediate object of friction between the archbishop and the clergy, and may have initiated a denouement of the clerical corporation's activity in the diocese. Archbishop Corsini now took every opportunity to flourish

73. Highlights are in ASF, NA 7941 (Ser Francesco da Castrofranco, 1418–1424), fols. 284r–285r (September 13, 1427), and NA 7942, fols. 343r–344v (October 22, 1427).

74. NA 7942, fols. 369–372v (December 30, 1427), published in Renzo Ristori, "L'Arcivescovo Amerigo Corsini e la sua controversia con il clero fiorentino (1427–29)," *Interpres* 1 (1978): 273–84.

75. Ibid., fols. 371r–v.

76. Ibid., fols. 370r–v, "Et dixit dominus dominus Archiepiscopus quod predicta si bene considerentur tendunt ad non modicum ipsius archiepiscopati et ecclesie et totius cleri florentini preiudicium et iacturam et ad impediendum ipsius ordinarii iurisdictionem."

77. ASV, RV 351, fols. 61r–62v (July 1, 1428), here fol. 62r.

78. ASF, NA 13508 (Ser Filippo di Bernardo Mazzei da Castelfranco, 1420–1434), fols. 106r–110v (August 5, 1428), fol. 107v.

79. These events are summarized in ASF, NA 7942 (Ser Francesco da Castrofranco, 1427–1430), fols. 112r–117v (April 14, 1429).

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his title as apostolic commissioner,[80] and documents on the clerical corporation are thin beyond this point. But episcopal government remained ineffectual, and the clergy's debt persisted. Even with Pope Eugenius IV resident in the city from 1434 onward, Archbishop Corsini and his successors, Vitelleschi and Lodovico Scarampi, had to rely on procurators of the urban and rural clergy to govern. Only under the reforming Archbishop Antoninus (r. 1446–59), who quickly declared his intention to convoke annual synods,[81] was episcopal authority firmly reestablished in the diocese, and this largely because he used his authority to address the material grievances that had stimulated the clergy to create their corporation in the first place.

By the mid-fifteenth century the corporate movement of the Florentine clergy had thus followed the path of conciliarism in the church and of republican ideals in Florence. In each case, the enthusiasms of the early fifteenth century for participatory government yielded to the advances of centralizing authority. Just as the *via concilii* gave way to the *concordantia catholica,* and republican *libertas* to an oligarchic vision of Florence's *ben comune,* so in the Florentine church did corporatism yield to hierarchy.

The clerical constitution of 1415–20 was the most articulate and comprehensive statement of the corporatist political aims that characterized the Florentine clergy in the early fifteenth century. In giving expression to their program, the clergy drew on their own local experience to weave together strands of political theory and constitutional practice drawn from the Florentine government and the church universal. They modeled their council on the principles set forth at Constance, drawing on Zabarella's ecclesiology to create a local corporation in which sovereignty resided in a council representative of its constituents. To this framework they added elements drawn from Florentine constitutional practice. Sharing many of the ideals of "civic humanists" like Leonardo Bruni, and incorporating strains of the republican idiom into their text, they nevertheless reemphasized the distinctly corporative foundations of Florence's republican tradition, establishing a distribution of offices in their corporation patterned on the federation of guilds, which had received its fullest explication in the 1293 "Ordinances of Justice." The clergy went beyond Florentines and conciliarists alike by articulating vertical lines of representation running from the corporation's foundation in the clergy through the council of sixty-six to its summit in the office of the procurators.

80. ASF, NA 13511 (Ser Filippo Mazzei, 1426–1450), fol. 55r (January 21, 1429).
81. The statute is published Trexler, *Synodal Law,* 279.

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The Florentine clergy's experiment with corporate self-government in the early fifteenth century illustrates both the impact of conciliar thought on church government at the local level and the clergy's perception of the compatibility between conciliar ideas and the Florentine system of republican government. That they were able to weave these strains of thought together so dexterously underscores both the common basis that conciliarism and Renaissance republicanism shared in the corporation theories of the late Middle Ages and the broad familiarity these ideas enjoyed among the commonality of the Florentine clergy.

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13

The Conciliar Church

GIUSEPPE ALBERIGO

The sharp tension between the Council of Basel and Eugenius IV, the legitimate successor of Martin V, imposed a marked check on the reception of the decisions of the Council of Constance. It is quite true that these were the banner of the new council, or at least of its majority; but, in the meantime, a crystallization of a difference that threatened to transform itself into a denial accelerated and deepened. In the new situation recourse to the council had ever less the significance of the one hope of Christendom, and risked assuming instead the opposite appearance of a threat to recovered unity. At Basel it seemed inevitable and proper to "use" the decrees of Constance as instruments of struggle without stopping short of their enlargement. However, at Rome and elsewhere the supporters of the pope had opposing intentions. Although Eugenius IV and the papal monarchy gained the upper hand, they could not stop short of a polemic against the decisions that, twenty years before, had restored unity to the church while restoring the Roman papacy. Having vanquished the threat of perpetuation of the Great Schism, the Western Church did not find the strength to confront the very causes of the schism. Ecclesiastical decadence and the indiscriminate exercise of central authority weighed down the church more than ever, and every effort to provide a remedy aroused harsh resistance and divisive conflicts.

This adversarial approach risked dissipating the results that the patient research of two generations had condensed in the decisions of

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Constance. In this state of things it was not easy to pull out of the perverse spiral of conflict that seemed to perpetuate itself and lead to decisions that in every case caused further mutilation of the church: one could stand with the council and, therefore, struggle against the pope or, vice versa, stand with the pope, not just struggling against the council but renouncing reform of the church. We know almost nothing of the echoes that this confrontation had in the daily life of Christendom. It is probable that the need for tranquility, the still-living memory of the struggles of the schism, and the difficulty of discerning between the arguments of the two parties checked almost every echo of the great institutional duel in progress.

A precise echo is heard in the universities[1] and religious orders, where there prevailed in the long run a solidarity with Basel, above all in the transalpine lands.[2] Nevertheless, even in these environments sympathy for the council lacked sufficient force to sustain the luxuriant and creative literature written between 1380 and 1415. Instead, one has the impression that the conviction of secure possession of the truth prevailed, without a disposition to allow oneself to ask about problems in the new situation, nor a commitment to confront them with an attachment that was not merely repetitive. Also there prevailed an analogous situation within the council.

The conciliar movement, which had animated the church diffusely during the preceding decades, enjoying the most generous support for overcoming the schism, did not exist any longer. A spontaneous phenomenon, graphically conditioned by circumstance—and, nevertheless, easily recognizable for the force that it had exercised in the leadership of Christendom—such a movement was spontaneously dissipated when, with the election of Martin V, unity was restored, and one could hope that reform of head and members would follow. Although reform had not eventuated, the conciliar movement did not reconstitute itself as robustly as it had existed at Constance within the Council of Basel, and this helps explain the lack of creativity and its slow but inexorable deterioration.

Nevertheless, the spiritual and theological patrimony that had nourished the overcoming of the schism had not been dispersed, above all after having found a solemn sanction in the decisions of Constance, crowned by the universal ac-

1. Cf. Josef Wohlmuth, "Universität und Konzil: Verfassungs- rechtliche und wissenschaftstheoretische Einflüss der Universitäten auf die Konzilien von Konstanz und Basel," in *"Scientia" und "Ars" im Hoch- und Spätmittelalter,* ed. Ingrid Craemer-Ruegenberg and Andreas Speer (Berlin: De Gruyter, 1994), 22/II:877–94.

2. In this context one should consult above all the research of Stieber and Swanson, and other minor works that I have listed in my "Il movimento conciliare (XIV–XV sec.) nella ricerca storica recente," *Studi medievali,* ser. 3, 19 (1978): 913–50.

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ceptance of the new pope chosen by the council. This patrimony had found in the University of Paris a center of zealous defense, one already conditioned by the domination of late medieval Scholasticism. The freshest fruits, however, were produced by contact between conciliarism and the cultural attachments inspired by humanism and by the realism that the rediscovery of great classical philosophy nourished.

The *Catholic Concordance* of Nicholas of Cusa

It is the accepted opinion that the *Catholic Concordance* (*De concordantia catholica*) of Nicholas of Cusa constitutes the most mature and incomparable doctrinal fruit of conciliar doctrine.[3] It appears too as the supreme effort to draw the doctrine elaborated at Constance away from use in a sterile institutional confrontation and to insert it creatively into the great tradition of theological reflection of the church.

Cusanus was not an acolyte of the Council of Constance nor of the decree *Haec sancta.* He was anagogically extraneous to the council, and it is not an accident that he utilized more fully in his works the councils of antiquity than that at Constance. Nicholas did not defend a work in which he was a protagonist or, rather, an actor. The schism is on his shoulders, and he never speaks of it; that is, his interest is rather the new situation that was created after its conclusion. Nevertheless, it is not difficult to perceive within the pages of the tract an effort to use to advantage the fecund contribution of the preceding generations of the schism.[4]

The *Concordance* is inserted into a precise historical context, from which is drawn inspiration and motivation; but, at the same time, it is a work essentially destined for the future, situated on the widest horizon, one coextensive with the very history of the church. Cusanus is anxious to show how the church's future could arise from the pains of narrow debate between Basel and Rome, attaining with discernment the treasures of Christian tradition and, at the same time, confronting creatively the new problems causing disquiet in his own time. The *Con-*

3. There is an ample review of these evaluations in Morimichi Watanabe, *The Political Ideas of Nicholas of Cusa, with Special Reference to His "De concordantia catholica"* (Geneva: Droz, 1963), 27n19.

4. The most detailed analysis of the relations between the doctrine of Cusanus and the preceding positions is that of Gerd Heinz-Mohr, *Unitas Christiana: Studien zur Gesellschaftsidee des Nikolaus von Kues* (Trier: Paulinus Verlag, 1958). Werner Krämer, *Konsens und Rezeption: Verfassungsprinzipien der Kirche im Basler Konziliarismus* (Münster: Aschendorff, 1980), 256–92, has dedicated an ample chapter to the ecclesiology of Cusanus, often reaching conclusions analogous to those expressed here.

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cordance, while not merely a writing of circumstance, receives from the historical moment in which its author lived intensely an unmistakable impulse that makes of it a proposal for the church's way of being and living in a period of crisis and transition, in which it seemed inevitably to resign itself to conflicts destined to impoverish the church and the very social dynamic of the West.

The optimism that feeds the tract, above all in the part dedicated to the church, distinguished it from writings that invoke reform—from Nicolas de Clamanges to Matthew of Krakow to Jacob of Juterbog—with dramatic accents and polemical veins. The young Rhinelander instead sends the *Concordance* in an essentially positive direction, avoiding thereby falling into simplistic ingenuity or taking refuge in an unreal utopianism.[5]

A solid knowledge of law, an impassioned rediscovery of history, and a direct engagement in the life of the Council of Basel prevented Cusanus from withdrawing from the thorny reality of the tensions and abuses of his own time. Nicholas of Cusa clearly goes beyond the ecclesiological frontier designated by the conciliar movement and by the Council of Constance, developing with great labor a doctrine of representation and making of it a future argument in favor of the prevalence of the universal council over the pope.

This aspect of ecclesiology was present already in the debate of the preceding decade, but it receives now a decisive deepening that consists in the use, not schematic but articulated, of that which, a few years later, John of Segovia could call representation by identity, typical of the medieval universities in relationship to their heads.[6] This is a representation characterized by a public relationship of a now juridical sort and, therefore, extraneous to the idea of "mandate" and very

5. From two diverse points of view Ernst Cassirer, *Individuo e cosmo nella filosofia del Rinascimento* (Florence: La Nuova Italia, 1935), 99–103, and Alois Dempf, *Sacrum imperium,* trans. Carlo Antoni (Milan: Principato, 1933), 510–14, have situated Cusanus on the dividing line between the Middle Ages and the modern epoch. According to the first, Cusan optimism did not take account of the great wave of restoration that manifested itself in the second half of the fifteenth century; for Dempf the graver lack was rather that of not having publicized the urgency of the interior reform of man alongside the geometric system of concordance. Perhaps, however, at least from the ecclesiological point of view, the position of Cusanus looked farther and merits being taken into account for a much longer time.

6. Cf. Rudolf Haubst, "Der Leitgedanke der Repraesentatio in der cusanischen Ekklesiologie," MFCG 9 (1971): 140–65 (also in *Der Begriff der Repraesentatio im Mittelalter: Stellvertretung, Symbol, Zeichen, Bild,* ed. Albert Zimmermann [Berlin: De Gruyter, 1971], 139–62); Werner Krämer, "Die ekklesiologie Auseinandersetzung um die wahre Representation auf dem Basler Konzil," in Zimmermann, *Der Begriff der Repraesentatio im Mittelalter,* 202–37; Peter Pernthaler, "Die Representationslehre im Staatsdenken der *Concordantia catholica,*" in *Cusanus Gedächtnisschrift* (Innsbruck: Wagner, 1970), 45–99; and, above all, the fundamental study of Hasso Hofmann, *Repräsentation: Studien zur Wort- und Begriffsgeschichte von der Antike bis 19. Jahrhundert,* 3rd ed. (Berlin: Duncker & Humblot, 2003). Helmut Walther, *Imperiales Königtum, Konziliarismus und Volkssouverantätsgedanken* (Munich: Fink, 1976), insists above all on the positions of Cusanus. Cf. Walter Ullmann, "De Bartoli sententia: Concilium repraesentat mentem populi," in *Bartolo da Sassoferrato,* 2 vols. (Milan: Giuffrè, 1962), 2:705–33.

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near, rather, to the concept of image, as the language of the *Concordance* frequently testifies.[7]

The contribution of Cusanus looks at the introduction of various levels or grades of representation. That is, he consented to escape the contest between pope and council as representatives of the universal church. Chapter 18 of book 2 (h XIV, 199–200) is dedicated principally to sustaining the position that both the conciliar assembly and the pope represent the church. Referring above all to Augustine, but also citing a great quantity of other texts, the author maintains—applying the hierarchical articulation that was dear to him—that there were different grades of representation of the same reality according to greater or lesser proximity of the *figura* to the reality represented. It follows from this that the pope represents the universal church in a way "extremely indeterminate and confused," while a universal synod, composed in a balanced way and including the pope himself, represents the church in a clearer and more varied way (II, 18, #158 [h XIV, 192). A more adequate representation means a more elevated level of infallibility in the decisions. For all these reasons, the universal council always has greater authority and lesser fallibility than the pope alone and, therefore, can depose him for causes other than heresy, as had happened at Constance.[8]

Cusanus advances his own understanding of the idea of representation applied to the church also in another direction, that is, every head represents the collectivity of its subjects. It cannot establish itself on any other basis, according to divine and natural law, than on an elective selection, in such a way that "whoever should govern all should be elected by all" (II, 18, #163 [h XIV, 200]). If the relationship of the bishop with his church is marital, analogously to that of Christ with the whole church, he needs constitutively a reciprocal means by which the faithful elect and the one elected accepts.

This principle should be reintroduced at all levels of the life of the church, including at the center, where the pope "should have by his side a permanent council formed by the cardinals, elected by the metropolitan bishops, legitimately representative of the universal church and, with the consent of it the church will be ruled in a better way." This will constitute *primam radicem reformationis* (II, 18, #166 [h XIV, 202–3]; cf. II, 18, #164 [h XIV, 200–1]; II, 21 [h XIV, 233–36]). The Ger-

7. *Figura, similitudo, repraesentatio* are used in a cumulative and interchangeable way in the same period. *Repraesentatio iuxta graduationem* (II, 18, #158 [h XIV, 192]) implies, too, constitutive inadequacy of representation itself. I cite the critical edition: *De concordantia catholica,* ed. Gerhard Kallen, in *Nicolai de Cusa opera omnia iussu et auctoritate Academiae Litterarum Heidelbergensis* (Hamburg: Meiner, 1964), vol. 14 of NC.

8. Cusanus, speaking of the depositions of popes decided at Constance, refers with great precision to the politico-constitutional category of *inutilitas* (II, 18, #161 [h XIV, 197]).

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man theologian thus avoids reaching a democratic conclusion and prefers to take a mixed position, according to which the power possessed by the head derives from the people only partially and not totally, granted that he receives from God in consecration the supernatural dimension of authority. From another point of view, he concludes that every power to govern—spiritual or temporal—is latent in the power of the people, but to pass into act requires its combination with a ray coming down from above (II, 19 [h XIV, 204–5]).[9] Thus there comes to light, in a synthetic form, a doctrinal position that expresses well the fundamental inspiration of the entire conciliar movement.

On this basis Cusanus formulated a proposal for profound and significant reform of the institutional aspect of the church and of the related doctrinal concept, without conceding anything either to Marsilian radicalism or, even less, to tendencies of Ockhamist inspiration. On the other hand, the true confrontation was with an impetuous recovery of the pro-papal ecclesiology that, after its eclipse in the period of the schism, was maturing—though still under the ashes (cf. II, 34, #249 [h XIV, 292]). Different from a few members of the Council of Basel, Nicholas did not lucidly take account of this resurgence, demonstrated by the few pages dedicated to some problems pertaining to the exercise of the pope's power: the obligatory value of conciliar decisions in relationship to the pope and the duty of the bishop of Rome not to grant dispensations without the consent of the college of cardinals.

While being a distinctly speculative spirit, Nicholas of Cusa shared the general conviction at the end of the Middle Ages that the church did not need modifications or doctrinal development, but only that the Christian life could and should be nourished and reordered by means of reform. The method of "concordance" and the system of the councils, if they were an adequate response to exasperation with papal prerogatives, did not depart, however, from the temptation to identity the church, especially the active church, with the body of the clergy. Even introducing consent as the central value, as Nicholas of Cusa did, did not avoid all risk; but he carried to completion the most profound ferments that the conciliar crisis had put into motion and that the cultural revolution of humanism was arousing. At bottom, one can see that the schism, a crisis of the church's vertex—emblematically one of two men—had involved and polluted the life of Christendom, gravely

9. One can detect in this position a certain syncretism that propounds daring readings of classic formulations ("All power comes from God," "What touches all should be decided by all," "Power resides in the people")—tentatively exclusive—and an instance of participation that had found interesting realizations in the political unity of the communes and in the conciliar movement as well as new historical manifestations in the popular movements of the late Middle Ages.

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and directly wounding the simple faithful, deprived of a secure institutional point of reference for their faith and also often disturbed by the ruin and degradation of pastoral services. Could one believe fundamentally that the solution of the crisis was limited to the internal life of the clergy? At first sight the Council of Constance could seem a prisoner of this, but objectively the decree *Haec sancta* went beyond it, and one should speak much more of the great phenomenon of reception, since all Christendom had accepted Martin V as legitimate pope.

The *Catholic Concordance* constitutes a balanced synthesis of such facets, enlivened by the exceptional cultural charisma of Nicholas of Cusa. To expand the concept of the church by adding the faithful people as a factor not just constitutes but also dynamically implies a leap of quality, connected to the very importance of elections and representation. The one and the other at the limit also can fail or achieve only modest results, but the consent of the faithful is endowed with a concreteness and efficaciousness that can be distorted but never canceled. From this point of view it is scarcely relevant to determine if Cusanus wished to assign to the manifestation of consent a juridical value and if such relevance belongs to the same phase of formation of law or just its efficacy. It is very interesting to underline the global ecclesiological importance to him of the will of the faithful, for which neither elections nor representation, however understood, could substitute completely. A complete and coherent ecclesiology results from this, but it is one that is extraneous to the "closed and complete system" that would be manifested beginning with the *Summa de ecclesia* of Torquemada.

The Identity and Significance of Conciliarism

It is important that historical research give new attention to the Council of Basel, revisiting the sources buried by controversial polemics.[10] It is true, however, that the *Catholic Concordance* comes too late, when the political space that was opened at the end of the trecento was almost closed and there were not historical forces interested in and capable of expressing a pressure for renewal. The errors

10. Among those in this line of inquiry are Antony Black, *Monarchy and Community: Political Ideas in the Later Conciliar Movement* (Cambridge: Cambridge University Press, 1970), and *Council and Commune: The Conciliar Movement and the Fifteenth-Century Heritage* (London: Burns & Oates, 1979); Krämer, *Konsens und Rezeption;* Joachim W. Stieber, *Pope Eugenius IV and the Council of Basel: Their Conflict over Supreme Authority and Power in the Church and the Response of the Secular and Ecclesiastical Authorities in the Empire (1431–1449)* (Leiden: Brill, 1978); Arnulf Vagedes, *Das Konzil über dem Papst? Die Stellungnahme des Nikolaus von Kues und des Panormitanus zum Streit zwischen dem Konzil von Basel und Eugen IV* (Paderborn: Schöningh, 1981). It is too easy to adopt a conflicting outlook on the history of Western Christianity in this period, as is evident in such titles as Francis Oakley, *Council over Pope?* (New York: Herder & Herder, 1969); and Joseph Lecler, *Le pape ou le concile? Une interrogation de l'Eglise medievale* (Lyon: Le Chalet, 1973).

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and omissions of the conciliar movement and, above all, its not knowing how to involve the mass of the faithful and the renunciation of making an effective reform of the ecclesiastical mechanism had very grave consequences.

From the factual point of view the efficacy of the decree *Haec sancta* seemed to consume itself in the renewal of Roman primacy and the unity of the Western Church. Having achieved sufficient importance as to seem chimerical for decades, *Haec sancta* would have seemed exhausted and forgotten if it had not been employed by those at Basel in the struggle with Eugenius IV and by the partisans of Rome in the polemic against the prestige of the council.

It is the *Catholic Concordance* that tries to draw the mature results of the conciliar movement together and systematize from all of it a coherent vision of the church as "concord." This ecclesiology draws upon *Haec sancta* and finds implicit in the decree itself a formulation that valorizes its potential, driving away the shadows and rigidities due to the historical situation. Also, the perspective achieved by Cusanus, despite his passage to the Eugenians,[11] did not find itself without contradictions in the church of the following decades. Should one perhaps conclude that conciliarism was a meteor in the firmament of Western Christianity? Did it appear at the right moment, cause the result sought in vain up to then and, when at last completed, was spent, consuming itself in its own effect?

A very relevant aspect of the debate about conciliarism looks at its remote origins, the doctrinal roots of conciliarism itself. An emphasis was placed on this dimension by the initiative of "Roman" ecclesiology, which did not hesitate to point to the roots of conciliarism itself in Ockham and Marsilius, involving all the movement in an accusation of heretical pollution. Historical research now agrees in maintaining that ancient and medieval ecclesiology had in its breast some elements of conciliarity that made the elaboration of the conciliar movement possible and traditional. In a particular way it has cast light on the uninterrupted presence in classical canon law of rich conciliar elements that lived

11. An exhaustive explanation of the passage of Cusanus and other conciliarist leaders to the Eugenian camp is still not available, and it is not easy to find worthwhile analytical research such as that of James Biechler, "Nicholas of Cusa and the End of the Conciliar Movement: A Humanist Crisis of Identity," CH 44 (1975): 5–21. A direction of research that seems fertile to me is that suggested by Paul Ourliac, "Les sources du droit canonique au XVe siècle: Le solstice de 1440," in *Etudes d'histoire du droit canonique dédiées à G. Le Bras,* 2 vols. (Paris: Sirey, 1965), 1:293–305; and even earlier by Gabriel Le Bras, on the ability to discern an epoch-making change of direction in the 1440s. It is interesting too to observe the effort of these scholars to maintain that the political reorientation of Cusanus did not correspond to an equivalent doctrinal change; see also Morimichi Watanabe, "Authority and Consent in Church Government: Panormitanus, Aeneas Sylvius, Cusanus," *Journal of the History of Ideas* 33 (1972): 217–36, reprinted in Watanabe, *Concord and Reform: Nicholas of Cusa and Legal and Political Thought in the Fifteenth Century,* ed. Thomas M. Izbicki and Gerald Christianson (Aldershot, U.K.: Ashgate, 2001), 59–79.

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physically alongside the elaboration of the prerogatives of the bishop of Rome.[12] But also the profound analyses of theological thought and exegetical tradition—withdrawn to secular Gallican confines and to the systematic, selective exclusion made by curial theologians—have awaited interesting rediscoveries in the same direction.[13]

Opportunely there has been diffused a healthy diffidence about doctrinal genealogies so tightly drawn as to demonstrate almost nothing. We have seen how almost nothing remains of reference to Ockham and Marsilius, sustained too—alas!—by literal transplants once we renounce making a critical analysis with preconceived conclusions.[14] There remains the extraordinary cleverness of an accusation made with prejudice by the Eugenians and its singular historical fortune. It always seems very clear that in pro-papal contexts the English theologian and the Paduan political writer become the emblems of political opposition to the papacy. If, then, someone opposed the papacy itself and its claim to be *legibus solutus,* he could be nothing other than a follower of these foes.

A more serene and articulated consideration of the historical roots has opened a road to a more accurate evaluation of the weight of the ferment of political renewal that permeated Europe. The ultimate connection of the political aspect with the ecclesiological one renders the two spheres reciprocally perceptible and permeable, as the context of the crisis at the end of the 1370s and the analogy between the varying dispositions, royal and papal, reveals. It is a direction of research that will try to assemble elements that still are precious.

Even more, in the measure in which research on conciliarism withdraws itself from extrinsic and improper classification, it will regain the liberty to analyze the facts for what they are, in their concreteness, in chronological succession, and in

12. Brian Tierney, drawing on Bodin, has suggested reading the ecclesiology of Constance in the framework of "divided sovereignty": "Divided Sovereignty at Constance: A Problem of Medieval and Early Modern Political Theory," AHC 7 (1975): 238–56. This seems to me key to a reading that is valid not just to qualify the conciliarist contribution to the evolution of political doctrines but also for putting into focus an important aspect of the ecclesiology of Constance. The fine suggestion of Tierney seems to me fecund for understanding how at Constance the vindication of the authority of the council never was nourished to the exclusion or the substantial mortification of the pope's authority, as Cusanus sustained in 1441—that is, in the full Eugenian period—in his *Dialogus concludens Amedeistarum errorem ex gestis et doctrina concilii Basiliensis,* ed. Erich Meuthen, MFCG (1971): 11–114.

13. Antony Black, "Council and Pope: The Modern Relevance of Conciliarism," *New Blackfriars* 56 (1975): 82–88, already sustained this, observing that the conciliarism of the theologians did not reflect the influence of the canonistic tradition. It seems to me that this observation goes, above all, toward enlarging the inquiry from canonistic roots to the exegetical and ecclesiological ones of the conciliar movement, avoiding the idea that the influence of these traditions was compartmentalized.

14. This need was underlined effectively by Charles Zuckerman, "The Relationship of Theories of Universal to Theories of Church Government in the Middle Ages: A Critique of Previous Views," *Journal of the History of Ideas* 36 (1975): 579–94.

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causal connection. The distinction between a moderate conciliarism, a balanced one, and an extremist one is more obedient to an ideological attempt to save at least something from the global accusation of extremism formulated by curial polemics that does not make doctrinal distinctions.[15] It adds rather an element of confusion that is not an instrument of understanding.

Conciliarism is not a complete and organized doctrine that someone could have applied, with greater or lesser intransigence, to the Western schism; rather, it is a movement that took shape gradually, employing the traditional doctrinal patrimony in response to a crisis and necessity that opened up in the very heart of Christendom. The circumstances are not external and secondary; they make a decisive pole of all the complex historical phenomena that the Western Church experienced between the end of the Avignon period and the beginning of the Renaissance papacy. Through these decades there arose effective doctrinal elaboration solidified, conditioned, and finalized in overcoming the decadence of the church manifesting itself clamorously in the schism and, above all, in its tenacious resistance to repeated efforts at overcoming it.

This theological elaboration pertains largely to the common doctrinal patrimony of Christendom. The novelties consisted entirely in the way in which the traditional data were organized. We know that the criterion and scope that had dominated such elaborations consisted in the restoration of the unity of Western Christendom and, especially, of its vertex, the Roman papacy. The able and fortunate insinuation that someone had tried to profit from the difficulties that arose like a bad omen from the schism to carry out a project of changing the *status ecclesiae,* and especially of the ecclesial position of the papacy, should be considered for what it always was: an effort to demonize and, therefore, expunge from the life of the Western Church a significant but unwelcome event. The conciliar movement had tried to respond gradually to the circumstances, always more critical, in which the church was involved, achieving only middling approximations of success and also sensational failures compared to the victory over the schism. In the seat of historical analysis we can ask, if ever, whether the lack of an alternative ecclesiological design to the one dominant toward the end of the fourteenth cen-

15. Many scholars have attempted an arduous political-doctrinal classification of the various positions present within the conciliar movement. Of these, I mention: Carl Andresen, "Geschichte der abenländischen Konzile des mittelalters, V: Der Konziliarismus des 15. Jahrhunderts," in Hans Jocher Margull, *Die ökumenischen Konzile des Christenheit* (Stuttgart: Evangelische Verlagswerk, 1961), 149–89. Among the first to emphasize rather the evolution that occurred between one generation and the next I mention: Dempf, *Sacrum imperium.* This, too, is the orientation of Antony Black, "What Was Conciliarism? Conciliar Theory in Historical Perspective," in *Authority and Power: Studies on Medieval Law and Government Presented to Walter Ullmann,* ed. Brian Tierney and Peter Linehan (Cambridge: Cambridge University Press, 1980), 213–24; and of Phillip H. Stump, *The Reforms of the Council of Constance (1414–1418)* (Leiden: Brill, 1994).

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tury had not gravely harmed the efficacy of the contribution made by the conciliar movement, putting off for a century the radical reconsideration of the complex equilibrium of Christianity in the West.

A scan of generations expresses the attempt to be faithful to this characteristic at the base of conciliarism as a movement aroused gradually by circumstances and engaged not in realizing a preconceived design but in drawing the church out of an inextricable labyrinth of contradictions. This engagement to overcome the critical situation acquired greater consistency and consciousness gradually that the ways by means of which the various centers of Christendom that had believed they knew how to provide for the healing of the church failed. This had pushed toward deepening the analysis of the causes of the ailment of Christian society and elaborating more adequate solutions for overcoming it.

This profound nature of the conciliar movement helps in understanding how there could arise from it also the ambiguous elements that played a subversive and divisive role ever more evident in the Council of Basel.[16] The insistence on an organic conciliar ecclesiology and a corresponding project to redesign the order of the ecclesiastical vertex had played a negative role at Basel, diametrically opposed to that played at Constance. In fact, too many of the protagonists at Basel believed they were in the same historical conditions as twenty years before. As a consequence, it occurred to them only to reaffirm the decisions from that time, even tightening them up, and to try elevating their grade of strictness by means of dogmatization.

These later advocates of conciliarism had, it seems, lost the capacity of the preceding generations to seize upon the characteristic perspectives of the historical juncture and, for the same reason, changed *Haec sancta* into a valid and cogent recipe independent of circumstances. On the other hand, the "Roman" theologians also fell into an analogous misunderstanding, to the extent to which they made of conciliarism an adversary to combat. Both these positions also had a positive instance of recovering what was a definite contribution and not exclusively a contingent one given by the conciliar movement to the church.

The more spontaneous and profound acquisition made by conciliarism con-

16. The analysis of the evolution that occurred at Basel circa 1433 can still be understood not just at the doctrinal level but also by taking into account the political-diplomatic dimension and that of the fact of the internal dynamic of the forces within the conciliar assembly. Perhaps the opinion of Walter Brandmüller ("Sacrosancta synodus universalem ecclesiam repraesentans: Das Konzil als Rerpäsentation der Kirche," in *Synodale Strukturen der Kirche: Entwicklung und Probleme* [Donauwörth: Auer, 1977], 93–112) on the inevitability of a catastrophic involution in the passage from Constance to Basel merits being plumbed and articulated, avoiding attribution of all of it to secular elements in the third generation of the conciliar movement. Were not secular elements a habitual ingredient of all the ecclesiologies in circulation? Besides, does this not call into question too the weight of secular elements in the restoration of the papacy?

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sists in the engagement to confront a new situation. The opposition of two and then three popes helped many to take account that the church was not an immobile reality subject—if ever—to some incident, but that it was in history and, therefore, also involved in its contradictions. Nothing in the medieval church seemed extraneous to the surprises of daily life as much as the papacy, yet the crisis manifested itself there. In this perspective, recourse—dearer more to theologians than to canonists—to *epikeia* to surmount the inadequacy of the norm acquired an emblematic significance.[17] It is the reappropriation on behalf of the church of the relationship between juridical order and historical reality that in the ordinary practice of medieval Christendom was concentrated in the hands of the pope under the form of the faculty of dispensation, especially in the private sphere of individual behavior.

At the same time, the normative ecclesiology of the conciliar movement remains, without doubt, a "corporate" ecclesiology that constitutes an element of continuity with the specific doctrinal tradition of the Scholastic theology of the church. It can even seem surprising, but the analysis of the crisis of the papacy had never complicated the connection between "corporate" ecclesiology and the exaltation of papal prerogatives. Within this common ecclesiological framework, the conciliarists championed the *universitas fidelium* and, above all, its representation personalized in the general council as an ecclesiastical assembly. Abstractly, one even can admit that this could flow into a democratic conception of the church, but in fact the road followed was completely different.[18]

In fact, drawing upon a rich Western Christology, with *Haec sancta* the Council of Constance had hit upon the way of immediate communication of authority from Christ to the church and, through that, to the general council. Thus it refuted the thesis of the origin of the authority of the church in the pope without conceding anything favorable—to tell the truth, rather tenuous—to "ascending" original authority in the church.[19]

The affirmation of the effective sovereignty of Christ in the church constitutes the nucleus of the decree *Haec sancta* in its definitive contribution to the concept

17. Cf. Bernard Hübler, *Die Constanzer Reformation und die Concordate von 1418* (Leipzig: Tauschnitz, 1869), 360–88; and Francesco D'Agostino, *La tradizione dell'epikeia nel medioevo Latino: Un contributo alla storia dell'idea di equità* (Milan: Giuffrè, 1976), which dedicates pp. 193–306 to equity in the struggle for the council during the schism, making unfortunate references to already-superseded points of view about conciliarism.

18. For this purpose the work of Jean Leclerq, *L'idée de la royauté du Christ au Moyen Age* (Paris: Cerf, 1959), especially 193–213, remains classic, although perhaps able to be updated and deepened.

19. Cf. Brian Tierney, "Roots of Western Constitutionalism in the Church's Own Tradition: The Significance of the Council of Constance," in *We, the People of God,* ed. James A. Coriden (Huntington, Ind.: Canon Law Society of America, 1967), 113–28, and also "Hermeneutic and History: The Problem of *Haec sancta,*" in *Essays in Medieval History Presented to Bertie Wilkinson,* ed. T. A. Sandquist and Michael R. Powicke (Toronto: University of Toronto Press, 1969), 354–70.

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of status ecclesiae. That this authority in the church had a new and direct origin in Christ constitutes an ecclesiological proposition, whether it ever was formulated or by its positive implications, that placed an invisible limit on any claim of dominion over the church. This affirmation—independent of this formal qualification that one wishes to recognize—expresses a well-rooted conviction in the Christian tradition, although repeatedly prejudiced by exuberant claims to papal authority.

In direct connection with this proposition, the assembly at Constance was defined as a general council and an expression of the church militant and, as such, capable of being the subject of authority received from Christ. It rises above, therefore, the impasse deriving from uncertainty about the legitimate pope, but not if it attained completely an image of the council as an assembly that is apart from the pope and that excludes him from its breast.

The general council claimed for itself on this basis the authority to obtain obedience from anyone in the church in whatever pertained to the faith, to overcoming schism, and generally to reform of the church in head and members. For a long time it was believed by many that with this the council affirmed a "superiority" to the pope, even an unlimited superiority harmful to papal prerogatives. The obligation of obedience did not necessarily imply an inferiority,[20] and the determination of responsibility implied two precise limitations. A first limitation regarded the exclusion of the executive level: the pope was bound to obey conciliar decisions by their dispositive (in modern language, legislative) nature and not administrative (in modern language, executive). The rigorous abstention of the Council of Constance from mere acts of government does not rebuke it, as—to the contrary—the impatience of those at Basel to intervene in such a sphere is a symptomatic modification of the attitude.

A second limitation regards the matters reserved to conciliar decision. The arguments relative to the faith traditionally were recognized as a conciliar competence even in comparison with the pope. For the quest for the unity of the church there also was a unanimous recognition, especially for the passage of schism into heresy, that this applied to a pope who was unable to provide for unity. Finally, the words "general reform of God's church in head and members" grant the council a competence concerning the general status ecclesiae that the doctrine accurately distinguished from the church's statutes, in which sphere eventual conciliar decisions could not then require absolute obedience on the part of the pope.

Also, the conciliar movement was convinced of the inseparability and inter-

20. The observations of Pietro Costa, *Iurisdictio: Semantica del potere politico nella pubblicistica medievale (1100–1433)* (Milan: Giuffrè, 1969), are always very pertinent to our purpose.

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dependence of the various constitutive aspects of the church's life: unity, holiness, catholicity, and apostolicity. The church is structured in such a way that these elements are bound together by a profound interconnection. Because of this interconnection, the church cannot be said to be unified when faced with a state of decay or heterodoxy. Similarly, the church cannot be orthodox when challenged by decadence and division, nor can the church remain holy without orthodoxy and unity. Driven by this consensus, the Council of Constance had established that decisions relevant to these constitutive elements of the church had value especially in relationship to the pope. The memory of the resistance of the contenders for the papacy to the Pisan decisions, and, even before, of a tendency to hold that the pope was not bound by conciliar decrees and free to dispense anyone from them, was alive in everyone.

One could have seen at the moment of the worsening of the conflict between Basel and Eugenius IV that distortions of Constance were possible, but only at the price of a radicalization that profoundly denatured them.[21] After Constance, the Western Church was different. The councils had acquired a place new and extraordinarily relevant in the life of Christendom. From then on all the great Christian issues were treated at councils—unity at Florence, internal renewal first at Lateran V and then at Trent, the search for a new relationship with the world at Vatican II. From the fifteenth century onward, the council, despite not having received any new formal recognition, had become a recurring pole of hope and expectation for the church.[22] That witnessed a profound and full reception of the content of *Haec sancta.* The council was an emergency measure and, by itself, supreme and final for the church. It treated a vital consciousness even before an ecclesiological or canonistic proposition.

The ecclesial consciousness had assimilated the idea that only when confronted with problems or circumstances in connection with which papal authority showed itself inadequate or inert, the church could and should have recourse to a council. The continuity of this consciousness, despite the age-old conciliar polemic and the monopolization of the idea of a council by the Gallicans, constituted proof of an integration of the conciliar idea into the deposit of faith by the

21. Black, *Monarchy and Community,* tends to emphasize a perception of an accentuated difference between Constance and Basel that Krämer, *Konsens und Rezeption,* tends to downplay.

22. Hubert Jedin, *Storia del concilio di Trento,* 2nd ed., vol. 1 (Brescia: Morcelliana, 1970), has opened the way to a historiographic reevaluation of this attachment. The magisterial panorama sketched by him has been enriched with studies like Olivier de la Brosse, *Le pape et le concile: La comparison de leurs pouvoirs à la veille de la Réforme* (Paris: Cerf, 1965); Remigius Bäumer, *Nachwirkung des konziliaren Gedankens in der Theologie und Kanonistik des frühen 16. Jahrhunderts* (Münster: Aschendorff, 1971); Francis Oakley on Almain, Major, and Lateran V; and Hans Schneider, *Der Konziliarismus als Problem der neuren katholischen Ttheologie* (Berlin: De Gruyter, 1976).

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action of the *sensus fidelium* in a measure that had equivalents only in the assimilation of dogmatic decisions of the great councils of antiquity.

From this point of view, a punctiliously circumscribed discussion of the formal validity of *Haec sancta* as a doctrinal decision, as a disciplinary decree, or as an emergency decree risks humiliating the significance of the decision of Constance instead of qualifying it correctly. We must return to the decisions of the medieval councils, all solemnly inserted into the law of the church, yet all fallen into oblivion with the circumstances that had made them necessary.

If, then, we also wish to elucidate the formal value of the decisions of 1415, we cannot depart from the context of necessity that made them necessary and possible. This also characterized the second proposition of *Haec sancta,* which at first sight seemed destined to render permanent and habitual what was sanctioned in the first proposition. Nevertheless, this recall is not sufficient to conclude that *Haec sancta* has value only under the circumstances of the Western schism or the eventuality (not verified) that such a schism would occur again, as was feared in 1415. In fact, it is evident that the theological principle put into effect in the enactment of the Constance decree transcends circumstances,[23] analogously to the fact that the Trinitarian and Christological principles elaborated at Nicaea or Chalcedon transcend the situation of necessity in regard to which they were formulated respectively.

The origin from Christ (and not from the pope) of the church's authority, the description of the general council as the image of the church, oblige every Christian to observe conciliar decisions in matters pertaining to the status ecclesiae (unity, orthodoxy, and discipline) transcending the circumstances that had caused the enactment and have entered into the permanent patrimony of the Christian faith, given that they express profound elements of ecclesial reality and not emergency expedients. The reception that they received by the church concerning the authoritativeness of councils is directly connected to the recognition of the definitive value of such acquisitions. *Haec sancta* was approved by a general council that existed for three years and laid the foundations of the modern papacy. This affirmation borne by the decree touches the nucleus of the status ecclesiae and, as such, has a permanent value and vigor.

It is proper in this context that the positions taken, respectively, by Nicholas of Cusa and the Council of Basel be distinguished. Cusanus, in fact, with the

23. There is a hint of this interpretation in Helmut Riedlinger, "Hermeneutische Überlieferung zu den Konstanzer Dekreten," in *Das Konzil von Konstanz: Beiträge zu seiner Geschichte und Theologie,* ed. August Franzen and Werner Müller (Freiburg: Herder, 1964), 219.

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Catholic Concordance positions himself in substantial continuity with the principles of Constance, rethought after the schism had been ended, integrating them above all into a larger vision of the church (differentiated between ecumenical council and general council), but also more articulated (the universal church as the "concord" of churches, not as an indistinct universitas fidelium) and with a valorization of consent that balances the masked "clerical" character of the conciliar movement.

On its side, the majority of the Council of Basel took upon itself a fixed interpretation of the decisions of Constance, claiming to apply them mechanically to a context already changed and striving to make them a "truth of the faith," while Eugenius IV and the theologians who supported him denied—with equal rigidity—any value to such decisions, At Basel they made a decisive contribution—however involuntarily—to a setting aside that would last for centuries of the theological principles that the long struggle of the conciliar movement had consented to bring into the light at Constance, making them the patrimony of the entire church.

The conviction of Western culture that the principles of conciliarism would be assimilated only by modern constitutionalism[24] derives, especially after Vatican I, from the impression that the contribution of the conciliar movement was definitively and completely eliminated from Catholicism. But, as John of Segovia acutely observed, the Roman victory over conciliarism was only a diplomatic victory and not a theological triumph.

Actually, the solution of the schism signaled the end of the long "vacancy" of public powers in Europe. Despite having had, perhaps, room for innovators and certainly having used potentially subversive means, the group that had elaborated and realized the surmounting of the crisis found that it had substantially effected a restoration. In fact, around 1430 Europe seems to resume the aspect it had before 1380. But, in reality, it is true only as regards the external aspect of the institutional system. Real life actually was changing rapidly. Above all, the points of reference, the ideals, were changing. The ferments of liberty and renewal that had gained the right to circulate around the end of the trecento showed that they were endowed with utility and a capacity for an exceptional historical impact. The space that divided the restored institutional aspect from the levels at which there was a more advanced European consciousness seemed possible to bridge by an

24. Research in this direction could find a new vigor referring to the historical identity of conciliarism rather than to a reformed image that has been taken up uncritically from Figgis.

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effort shared—at least apparently—by all. In the civil and political arena, as in the ecclesial one, in popular preaching, in learned treatises and the courts of sovereigns, pontiffs, princes, the word of the day was reform.

The effort to reform that sprang from the diffuse critique of the "deformation" of institutional and moral criteria was vested in the ecclesiastical—and, above all, curial—sphere, as the very rich literature on ecclesiastical decadence demonstrates, as well as in the political sphere, where it suffices to remember the *Reformatio Sigismundi.*

The generation that assumed these responsibilities in the1430s, to which belonged such men as Aeneas Sylvius Piccolomini, John of Torquemada, Lorenzo Valla, Marsilio Ficino, Nicholas de Tudeschis (Panormitanus), Nicholas of Cusa, and Ambrogio Traversari, found itself with this tension between institutional restoration and reform at all levels of life. This generation, characterized—not by chance—by an increased number of clamorous battles, is the context in which humanism assumes its definitive connotations as a creative, irresistible momentum of another way of conceiving and living the human experience.

The last quarter of the fourteenth century was characterized, above all in Western Europe, by an increasing political tension over the control of fiscal resources. The entire system of Christendom was shaken by struggles that arose repeatedly between various princes and the papacy. These pursued an effort to reduce the economic weight of a refined fiscal mechanism that had its head at Rome (or Avignon), dreaming of subverting it. The papacy, on its side, was aware that its European leadership had became compromised to an ever-increasing extent—above all during the period at Avignon—especially by the easy disposition of larger sums of money and the ability of Rome to assign ecclesiastical revenues that made them disposable in every part of Europe. The English crown, during the fourteenth century, had realized a series of successes on the way to reducing curial fiscalism; but the problem was still open in all the other political areas.

On the other hand, too, institutional evolution showed a marked tendency to emphasize the political prominence of the figure of the pope, the origins of his authority and the extreme fullness of his powers. From Giles of Rome to Augustinus Triumphus, the elaboration of ever more radical theses on papal authority knew neither checks nor hesitation. This stimulated a parallel and concurrent elaboration of doctrines about imperial and royal authority, even under the necessity imposed by great conflicts, like those of the Roman papacy with Philip the Fair and Louis of Bavaria. As a result, the theological reflection of the fifteenth century focused, when theologians looked at the church, almost exclusively on the prob-

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lem of relations between pope and council and their respective powers.[25] Also, the Council of Florence, celebrated to attempt union with the Eastern Church, reacted to this climate and approved, at the end of the decree of union *Laetentur caeli,* a brief proposition about the pope and his patriarchs.[26] In reality, none of the decisions of these late medieval councils enjoyed uncontested prestige, and their reception resulted almost always in lesser significance for the use that was made of the councils themselves in the course of repeated political-ecclesiastical conflicts.

In the light of these facts it is possible to take account of the fluid state of Christian ecclesiology on the threshold of the modern age. The very limits were uncertain and ill defined, in the lack of points of reference univocally accepted by all. On the doctrinal plane, pluralism was the norm, even if poisoned by polemics and acute conflicts. In practice there existed a greater compatibility. Rome and the "Roman" theologians enjoyed "ownership" of the situation and did not care about the intolerance that such a state of things generated. The centralization of *causae maiores* and the solidarity of sovereigns—even if only tolerated and paid for at a high price—were the consistent bases and, apparently, the definitive ones, of an implicit ecclesiology that was not dogmatized but highly conscious and intransigent by nature.

Confronted by the ecclesiological engineering of John of Torquemada in his *Summa de ecclesia,* Western Christianity had experienced at the end of the quattrocento and the beginning of the cinquecento the myopic conviction of an indefinite social hegemony. The certainties offered by Torquemada's ecclesiology of restoration anesthetized the Western Church and, above all, the Roman one to the point of rendering it deaf to the disquiets of Renaissance humanism, as well as to the instances of the most pressing daily need for reform that proliferated in a universitas fidelium humiliated and lacerated by decadence.

Faced with the problems posed by a cultural revolution in progress, the papacy deluded itself into responding with a superficial, if not arrogant, patronage; the voices that cried out for a renewal of fidelity to the gospels[27] appeared petulant when it was not possible to brand them as heretical. It is useful to revisit a little-known episode at the Council of Trent that helps us perceive Roman deafness to

25. Cf. Vagedes, *Das Konzil über dem Papst?* and *Kirchengeschichte in ökumenischer Perspektive,* ed. Lucas Vischer (Basel: Reinhardt, 1983), above all the contributions of Erich Meuthen, Hans Schneider, Deno J. Geanakoplos, and Herwig Aldenhoven.

26. COD, 528.

27. I mention as an example the *Libellus ad Leonem X* of the Carmaldolese Vincenzo Querini and Paolo Giustiniani, ed. Joannes B. Mittarelli and Anselmo Costadoni, in *Annales camaldulenses,* vol. 9 (Venice: Pasquali, 1773), 612–719. See also Nelson H. Minnich, "Concepts of Reform Proposed at the Fifth Lateran Council," AHP 7 (1969): 163–251, reissued in *The Fifth Lateran Council (1512–17)* (Brookfield, Vt.: Variorum, 1993), 222–31.

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the social order of the church. In January of 1563, there arrived at Trent a Roman proposal according to which the bishops "are called by the true Vicar of Christ, the Roman pontiff, who holds the primacy in the entire universe, is successor of blessed Peter, prince of the apostles, head of all the church, father, shepherd and teacher of all Christians, to participate in his solicitude," and also that the bishops "by the decision of Christ Himself occupy in the church the principal position, dependent upon the Vicar of Christ, to which in blessed Peter, was entrusted by our Lord Jesus Christ with the full power to feed, direct and govern the universal church."[28] The proposal generated understandable dismay in the papal legates.[29]

To the Roman formula there was joined a canon according to which anyone who denied that "blessed Peter by the decision of Christ was made the first of the apostles and His vicar on earth" and did not recognize that "in the church the one pontiff, successor of Peter and his equal in authority to govern, and his legitimate successors in the Roman see down to the present time, have the primatial right" would be anathema. While whoever affirmed that "the Roman is not the father, shepherd and teacher of all Christians and that there was not entrusted to him by our Lord Jesus Christ in blessed Peter the full power to feed, rule and govern the universal church" would have been anathema.[30]

At Rome there was hope that conciliar debate on the responsibilities of bishops could be the occasion to reaffirm the formula on the papacy approved in the previous century at the Council of Florence—but deprived of the paragraph on the patriarchs that had had considerable weight at Florence. The presidents of the council read the proposal with disapproval, and one of their collaborators commented that the text "would have implied staying at Trent for years without settling anything."[31] For their part, the conciliar fathers used none of this in their decree *On the True and Catholic Doctrine about the Sacrament of Orders for the Condemnation of the Errors of Our Time,* approved in the solemn session on July 15 of the

28. *Concilium Tridentinum,* 13 vols. (Freiburg: Herder, 1901–) (hereafter CT), 9:233, "a vero Christi vicario, pontifice romano, in universum orbem primatum tenente, beati Petri apostolorum princpis successore totiusque ecclesiae capite ac omnium Christianorum patre, pastore ac doctore, in partem sollicitudinis assumuntur" and "ex eiusdem Christi institutione in ecclesia catholica praecipuum locum, dependentem ab eodem Christi vicario, cui in B. Petro pascendi, regendi et gubernandi universalem ecclesiam a D. N. Iesu Christo plena potestas tradita est, obtine[nt]."

29. See my "L'unité de l'Eglise dans le service de l'Eglise Romaine et de la papauté (XIe–XXe siècle," *Irénikon* 51 (1978): 46–72, especially 58–63.

30. CT, 9:234, "beatum Petrum ex Christi institutione primum inter apostolos eiusque vicarium in terris fuisse," "in ecclesia unum pontificem Petri successorem et cum eo regiminis auctoritate parem et in Romana sede legitimos successores ad haec usque tempora ius primatus habuisse," and "Romanum pontificem omnium christianorum patrem, patorem et doctorem non existere, plenamque potestatem pascendi, regendi et gubernandi universalem ecclesiam a D. N. Iesu Christo in B. Petro eidem traditam non fuisse."

31. Ibid., 3/1:542.

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same year 1563.[32] On the other hand, on January 24, the cardinal nephew, Charles Borromeo, already had written to the legates trying to retreat to "some new form of words that will save in every way the intent of his holiness (which is in substance saving his authority and defending this holy see from every sort of prejudice and holding firmly to this truth, that the bishops have their jurisdiction from his beatitude)."[33]

For the greater part of the same year a project of a profession of faith that the papacy wanted submitted to this council also contained a proposition about the church being "placed under the unique supreme Roman pontiff, the Vicar of Christ." The formula had better fortune only after the conclusion of the council in the *Professio fidei tridentini,* where there figures the following formula: "I acknowledge the holy catholic and apostolic Roman church to be the mother and teacher of all the churches; and I offer and swear true obedience to the Roman pontiff, the successor of Peter, the prince of the apostles and the Vicar of Christ."[34] At Rome a postconciliar commission of Pius IV had omitted the note of the "unity" of the church, adding instead that of "Roman-ness."[35] The reawakening of dangerous illusions and ambitious certainties that Rome had wished to believe real and definitive was slow and sad; a long dark night almost entirely deprived of the lights of hope ensued.[36]

32. COD, 742–44.

33. In *Jacobi Lainez disputationes tridentinae,* ed. Hartmann Grisar, (Oeniponte: Rauch, 1886), 1:497.

34. Heinrich Denzinger and Adolf Schönmetzer, *Enchiridion symbolorum, definitionum et declarationum de rebus fidei et morum,* 36th ed. (Barcelona: Herder, 1976), 426.

35. Cf. Giuseppe Alberigo, "Profession de foi et doxologie dans le catholicisime des XV et XVI siècles," *Irénikon* 47 (1974): 5–26; Hubert Jedin, "Zur Entstehung der *Professio fidei tridentina,*" AHC 6 (1974): 369–75; and Pedro Rodrigues and Raul Lanzetti, *El catecismo rmano: Fuentes e historia del texto y de la redaccion* (Pamplona: Ediciones Universidad de Navarra, 1982); as well as the edition *Catecismus Romanus* (Rome: Libreria Editrice Vaticana, 1989).

36. Giuseppe Alberigo, "From the Council of Trent to 'Tridentinism,'" trans. Emily Michelson, in *From Trent to Vatican II: Historical and Theological Investigations,* ed. Raymond F. Bulman and Frederick J. Parrella (Oxford: Oxford University Press, 2006), 19–37.

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14

Councils and Reform

Challenging Misconceptions

CHRISTOPHER M. BELLITTO

On October 7, 1964, readers of the *New York Times* awoke to find Vatican II's ecumenical steps described as "truly startling":

"The Counter-Reformation is over." Historians of the future can write this after the votes of the last few days at the Second Vatican Council in Rome. It was the Council of Trent, 1545–1563, that set up a fighting defense against the new Protestant movement and the old schismatic Orthodox believers. Vatican II is dismantling that fierce defensive mechanism which has endured for four centuries. . . .

The Roman Catholic Church has been transformed in the two short years since Vatican II's first session opened. Transformation in this sense means "a change in outward shape or form," to give Webster's definition. It does not mean that the Roman Church has changed in a substantial or dogmatic sense or that its authorized, formal teaching (its *magisterium*) has any less validity for Roman Catholics than heretofore. . . .

Outside of these unchangeables is the vast field of interpretations, attitudes, practices, customs, traditions, understandings, methods, which are changeable and which are now leading to a new era in Roman Catholic history. The obstacles to Christian unity are still formidable, but certainly the Roman Church is taking great strides toward the goal.[1]

This excerpt has it all: a somewhat simplistic description of Trent, but one with an element of important truth; an overly enthusiastic assess-

1. Unsigned editorial, "On Ecumenism," *New York Times,* October 7, 1964, 46.

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ment of the ecumenical steps, but an understanding of the long road to unity still ahead; a recognition of what can and cannot be changed in Roman Catholicism (and that there is indeed a difference); and a sense of history.

It is, unfortunately, an informed sense of history that is lacking in current discussions of councils, reform, and ecclesiology, which often follow a flawed fault line pitting Trent against Vatican II. For some time now, in fact, scholars have reassessed the stereotypes of Trent, early modern Catholicism, and Vatican II.[2] One needs only to look at the multivolume *History of Vatican II* that Giuseppe Alberigo and Joseph A. Komonchak have edited for some examples. Alberigo notes that it was indeed the pastoral side of Trent's application that had long fascinated the Borromeo scholar Angelo Roncalli.[3] Another chapter notes that in the 1959–62 period between John XXIII's call for a council and Vatican II's commencement, Trent was seen as the "exemplar" of the kind of council that condemns heresy and states orthodoxy, but that it was also recognized as a council of reform. At the same time, one group of bishops in their *vota* hoped Vatican II would complete Trent, but it appears these bishops had the intransigent Trent, not the pastoral council of reform, in mind.[4] Komonchak found that John XXIII's ecumenists recognized that at Trent—and recommended that at Vatican II—a sincere attempt had in fact been made to see what other Christians really believed.[5]

Is anyone beyond academics listening? We should note, however, that some academics may not be listening, either—a point made recently by William Hudon when he demonstrated how reassessments of the supposedly repressive and monolithic papacy during the era of reformations have filtered only imperfectly into textbooks. The big bad papacy continues to be a cliché in the allegedly

2. For the most comprehensive treatment of Trent's history, see John W. O'Malley, *Trent and All That: Renaming Catholicism in the Early Modern Era* (Cambridge, Mass.: Havard University Press, 2000). For a short primer on what Trent actually was and did, see O'Malley, "The Council of Trent: Myths, Misunderstandings, and Misinformation," in *Spirit, Style, Story: Essays Honoring John W. Padberg,* S.J., ed. Thomas M. Lucas (Chicago: Loyola, 2002), 205–26. On Vatican II, see the very helpful summary provided by Joseph A. Komonchak, "Interpreting the Council: Catholic Attitudes toward Vatican II," in *Being Right: Conservative Catholics in America,* ed. Mary Jo Weaver and R. Scott Appleby (Bloomington: Indiana University Press, 1995), 17–36; and, now a bit dated, Avery Dulles, "Vatican II and the American Experience of Church," in *Vatican II: Open Questions and New Horizons,* ed. Gerald M. Fagin (Wilmington, Del.: Glazier, 1984), 38–57, reprinted as "American Impressions of the Council," in Dulles, *The Reshaping of Catholicism* (San Francisco: Harper & Row, 1988), 1–18.

3. Giuseppe Alberigo, "The Announcement of the Council from the Security of the Fortress to the Lure of the Quest," in *History of Vatican II,* vol. 1, *Announcing and Preparing Vatican Council II: Toward a New Era in Catholicism,* ed. Giuseppe Alberigo and Joseph A. Komonchak (Leuven: Peeters, 1995), 12. The series' five volumes are now all available.

4. Etienne Fouilloux, "The Antepreparatory Phase: The Slow Emergence from Inertia (January, 1959–October, 1962)," in *History of Vatican II,* vol. 1, *Announcing and Preparing Vatican Council II,* 70–72, 111.

5. Joseph A. Komonchak, "The Struggle for the Council during the Preparation of Vatican II (1960–1962)," in *History of Vatican II,* vol. 1, *Announcing and Preparing Vatican Council II,* 266–67.

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conventional wisdom, which indicates not only that the conventional wisdom is wrong, but that it does not know that it is wrong.[6] If, as we are understanding more and more, Vatican II completed Trent and these two great councils are not the oil and water of church history, then why don't people in the pews know that? After all, John XXIII's call for a council did send people back to history. Shortly after his announcement, several popular histories of the councils were published by Philip Hughes and Hubert Jedin.[7] At least two public series looked at the history of general councils: in Ireland, *The Great Councils of the Church* was a radio series broadcast October–November 1962, and in the United States professors at The Catholic University of America (offering a fine example of putting scholarship at the service of the church beyond the academic gates) gave a lecture series that was later published.[8] It may be even more critical to learn what the person-in-the-pew thinks of Trent, Vatican II, and Trent–and–Vatican II, since better than 95 percent of Roman Catholics are neither clergy nor professors.

What do the priest-in-the-pulpit and the person-in-the-pew know and where do they get their information? This question was pursued by looking at some mass-circulation secular publications and Catholic periodicals. Because Vatican II sent Catholics, journalists, and scholars back to thinking more explicitly about Trent, this study examined articles around the time John XXIII called the council and at certain moments since then when the Trent–Vatican II nexus was revived. Some questions were posed: If these sources at these times were the only exposure to Trent and Vatican II, what would the impression of them be? Are overly positive or negative views of Trent positive or negative because they reflect recent scholar-

6. William V. Hudon, "The Papacy in the Age of Reform, 1513–1644," in *Early Modern Catholicism,* ed. Kathleen M. Comerford and Hilmar M. Pabel (Toronto: University of Toronto Press, 2001), 46–66, especially 49nn8–10 and 60n36. In his contribution to this volume, Giuseppe Alberigo, one of the deans of Trent–Vatican II scholarship, indeed sees a papacy that took control of the reform movement in the decades and centuries after Trent. However, his analyses, published widely, often remain far more nuanced than the textbook caricatures. For his latest statement on the matter see, in addition to this volume's essay, Alberigo, "From the Council of Trent to 'Tridentinism,'" trans. Emily Michelson, in *From Trent to Vatican II: Historical and Theological Investigations,* ed. Raymond F. Bulman and Frederick J. Parrella (Oxford: Oxford University Press, 2006), 19–37. Here, Alberigo notes a certain polycentric model of reform at and immediately after Trent that began to lose to papal control as early as the 1570s, but especially under Sixtus V (r. 1585–90). Nevertheless, a full-blown, papally controlled Tridentinism did not entirely take the polycentric model over until a full century had passed after Trent's adjournment and, of course, snowballed as a reaction to the scientific revolution, the Enlightenment, and Napoleon's actions against Pius VI and Pius VII.

7. Hubert Jedin, *Ecumenical Councils in the Catholic Church: An Historical Survey,* trans. Ernest Graf (New York: Herder & Herder, 1960); and Philip Hughes, *The Church in Crisis: A History of the General Councils, 325–1870* (Garden City, N.Y.: Doubleday, 1961).

8. The most relevant for our purposes of these Irish broadcasts, which were aired by Radio Eireann, was published as F. X. Martin, "The Council of Trent," *Irish Ecclesiastical Record* 100 (July–December 1963): 18–30; for The Catholic University of America lectures, see *The General Council: Special Studies in Doctrinal and Historical Background,* ed. William J. McDonald (Washington, D.C.: The Catholic University of America Press, 1962).

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ship or because they fail to—and therefore proverbially "pine for the old days" that never existed, as that recent scholarship has been demonstrating—and/or are they guilty of an ahistorical ignorance that cannot help the current conversations about church reform because they are not adequately informed? Witness the very informative companion books edited by Mary Jo Weaver and R. Scott Appleby, *Being Right: Conservative Catholics in America* and *What's Left? Liberal American Catholics.*[9] As the editors themselves noted, research finds evidence from both sides of a lack of desire for dialogue and an ahistoricism that are troubling.[10] Trent appears in the index of neither book; where it comes up, it is usually connected to the issue of the Latin (sometimes called the "real") Mass.[11] So, the questions are: Just what are people's general impressions of Trent and Vatican II, and where do they get these impressions?

Trent and Vatican II in the Non-Catholic Press

One way to proceed is not with Catholic publications, but the broader picture painted by mainstream, secular publications, such as the *New York Times.* In 1890, the *Times* reprinted an item titled "The Classics and the Council of Trent" from the *Westminster Review.* It was a dispassionate little piece about the early Index of Forbidden Books with respect to Greco-Roman classics: "On the whole, however, we may say that during the early history of the Index the church hardly dealt with the question of loose literature, and, as far as it went, it was inclined to handle the question lightly."[12] Another early, factual mention of Trent in the *Times* dates from 1907, when the paper treated changes in marriage law, governed by Trent, that recognized civil marriage.[13] Another such appearance of Trent came late in 1945. The article indicated the era's Roman Catholic triumphalism more than anything else. Quoting and paraphrasing the pope's letter to the archbishop of Trent at some length, but without comment, the article began: "The anniversary of the opening session of the Council of Trent, which was called by the Holy See 400 years ago largely to combat the rise of Protestantism, was marked today by the publication of a letter from Pope Pius XII in which he expressed the hope that all non-Catholics who believed 'in the principal divinely-revealed truths' would return to the Catho-

9. Weaver and Appleby, *Being Right;* and *What's Left? Liberal American Catholics,* ed. Mary Jo Weaver and R. Scott Appleby (Bloomington: Indiana University Press., 1999).

10. Weaver and Appleby, *Being Right,* ix.

11. See especially William D. Dinges, "'We Are What You Were': Roman Catholic Traditionalism in America," in ibid., 241–69.

12. Unsigned article, "The Classics and the Council of Trent," reprinted in *New York Times,* July 27, 1890, 18.

13. Unsigned article, "Pope Modifies Marriage Law," *New York Times,* September 8, 1907, C3.

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lic faith, thus ending the schism." Later, the article again turned to Pius XII's own words: "He also advised [non-Catholics] to reflect 'that all those truths that the innovators of the sixteenth century had in common with the church have been retained whole and unaltered by the Catholic Church alone.'"[14]

In the front-page article covering John XXIII's call for an ecumenical council in late January 1959, the *Times* emphasized his desire for unity and the invitation to non-Catholics. At the end of the article, this paragraph appears: "All authorities consulted here made it emphatically clear that the Vatican was expecting the Eastern Christians and Protestants to 'return to the common home'—that is, to recognize the primacy of the Pope." But, the article continued, "The ecumenical council would examine ways to make such a return easier, these sources explained. They said the church could not renounce its dogmas, because they are held to have been defined by divine inspiration, but it could introduce changes in canon law, liturgy and church doctrine."[15]

In October 1964, the coverage was particularly exuberant: "The Second Vatican Council is, as we have noted before, the most important such gathering since the Council of Trent four centuries ago. It is now developing into an exciting event of historic proportions." The great gray lady's enthusiasm overflowed:

> It now seems certain that the government of the Church will be altered to give the episcopacy a collegiate role under the guidance of the Pope. . . . One of the most startling and—to non-Catholics—one of the most gratifying tendencies is illustrated by the apparent desire of a great many of the most influential prelates to support a declaration on religious liberty. . . . This is a sensational development in the long course of history, when one casts an eye back to the persecution of heretics, to the Crusades, the Inquisition, the religious wars, right down to the treatment of Protestants in modern-day Spain.
>
> Intolerance has been, over the centuries, as fierce on the part of non-Catholics as Catholics; but with a specific declaration of religious tolerance by the highest deliberative body of the Roman Catholic Church it is obvious that a new era is shaping up for Roman Catholics and therefore in some ways for the whole world.[16]

The *Times*'s coverage of the council's adjournment was also optimistic and marked by admirable historical perspective:

> The parallels to the great Council of Trent, which ran with interruptions from 1545 to 1563, are startling, even to the names of two of the most important Popes involved—Paul III and Paul IV. The danger to Roman Catholicism then was the Protestant Reforma-

14. Virginia Lee Warren, "Pope Asks Return of Non-Catholics," *New York Times,* December 14, 1945, 5.
15. Paul Hofmann, "Pope to Summon Council to Seek Christian Unity," *New York Times,* January 26, 1959, 1, 3.
16. Unsigned editorial, "The Council Moves Ahead," *New York Times,* October 2, 1964, 36.

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tion. Today it is the process of secularization and the threat from atheistic Communism. The Church was fortunate in the sixteenth century to have a series of outstanding Pontiffs who were able to lead the Council of Trent to its supreme achievement of a renewal of spiritual life inside the Church.

Trent was summoned to reform abuses; Vatican II to bring the Church up to date. Both councils were necessary for the type of rejuvenation that every human institution—religious or secular—needs in sustaining its position in a dynamic world. The penalty for neglect of this process is to lose touch with the world in which religions, like governments, must work.

In both councils the Church needed vastly more than its Supreme Pontiffs alone could provide to prepare and achieve innovations. In each, there had to be zeal for reform, open-mindedness, endless patience and hard work on the part of hundreds of cardinals, bishops, and experts. When the interrupted Council of Trent was reconvened in 1562, it brought forth a mass of reformist legislation that set the pattern of Catholic life to this day. In the same way, Vatican II has proclaimed reforms that will profoundly affect Catholics for generations or centuries to come.[17]

These paragraphs are striking: the *Times* got Trent right in 1965 coverage that would resonate well with current historical scholarship.

The general reading public would also have found out quickly that Vatican II was, in a sense, just getting started when it ended. Less than a year after the 1965 adjournment, the *Times* covered Cardinal Ottaviani's syllabus of ten doctrinal errors that he said had appeared since the council. Despite the fact that the heads of the world's episcopal conferences, who had received Ottaviani's letter and list, were enjoined to keep it a secret, the story was leaked.[18] To non-Catholic and Catholic readers, there was at least this indication that all was not well. The *Times* continued to track the changes. In an article that at first seems like a light feature, but later reveals itself to be sensitive and informed, the *Times* discussed how cloistered nuns were experiencing the growing pains of renewal as they went *ad fontes* to rediscover and enliven their founding charisms: outsiders coming in to conduct classes, informal meals (with a revised diet—including pancakes!), increased recreation time with conversation, decentralization to give each house more autonomy, and more attention to private prayer.[19]

While these two articles show the dichotomies happenings within the church, an important news analysis provided the one-year-after story for the general reader

17. Unsigned editorial, "'Ite in Pace,'" *New York Times,* December 9, 1965, 46.

18. John Cogley, "Ottaviani Lists Doctrine 'Abuses,'" *New York Times,* September 9, 1966, 18. For a discussion of this letter, see Samuel J. Thomas, "After Vatican Council II: The American Catholic Bishops and the 'Syllabus' from Rome, 1966–1968," *Catholic Historical Review* 83 (1997): 233–57.

19. Edward B. Fiske, "Cloistered Nuns Gain New Freedom with Reform," *New York Times,* November 19, 1966, 36.

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and split the balance. The article noted that, in Rome, little had apparently changed except that clerical suits had sometimes replaced cassocks, Mass was celebrated in Italian (with Latin retained for the rosary), and Catholics could eat meat on Fridays—although, the reporter noted, few Italians had abstained prior to the council, anyway. Within the Curia's "unchanged Renaissance setting," however, the fresh air of Vatican II seemed not to have blown: "In the Pontifical palace proper, Swiss Guards still wear the uniform designed by Michelangelo, lay functionaries directing traffic still look like comic-opera characters, with their silken knee breeches and buckled shoes, and the Pope is still carried on a portable throne. The baroque splendor has not been diminished one whit, and the chill formalism of a papal audience is no different under Paul VI than under Pius XII."[20]

What might have struck the *Times* reader most was the clear-eyed appraisal of Paul VI, "helplessly imprisoned in all this *romanità.*" Contemporary observers and historians have agreed with this journalistic assessment of the papal Hamlet and the pope of "buts." Catholics and non-Catholics who had followed the *Times*'s enthusiastic coverage of the council must have been confounded or even disappointed with statements such as these: "Like the church in Rome, [Paul VI] warmly endorses change and then carries on as usual. . . . he spends most of his energy warning against the dangers of 'going too far.' For every abstract endorsement of progress since the council ended, there seem to be three admonitions favoring caution. . . . 'The whole church is ahead of Rome,' another observer said, 'but that's the way it has always been.'"[21] An article about two and a half years later continued this theme when it covered a public lecture in the United States by Johannes B. Metz, who said that the move against Catholic reform was "the Counter-Reformation of 1969": "Once more there is an Inquisition," said Metz, "certainly more subtle and veiled than in previous centuries, but all the more hazardous and serious because it is so veiled."[22]

Once more, we should note from these examples from the world's newspaper of record how often the *New York Times* got the story right—for the Catholic and non-Catholic reader alike. While some may not like the "sides" the *Times* covered nor the fact that, like most media outlets, this one tends to put everyone in two clearly defined and opposing camps with not much middle ground, it remains true that, on the whole, the *Times*'s picture of the church's excitement about Vatican II and the internal battles that ensued matched reality fairly accurately.

There was another influential secular publication whose coverage is worth ex-

20. John Cogley, "Immobilism in Vatican," *New York Times,* November 30, 1966, 28.
21. Ibid.
22. Unsigned article, "Catholic Priest Sees New 'Counter-Reformation,'" *New York Times,* June 19, 1969, 18.

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ploring, if for no other reason than that it provided a Catholic clerical voice in a non-Catholic outlet: the *New Yorker* and Xavier Rynne's "Letters from Vatican City." There were very few references to Trent; we should concede that Francis X. Murphy (the pseudonymous Rynne's real name) was more concerned with the present and future than with the past, but Vatican II had sent people back to history. In his coverage of the first session, Rynne/Murphy offered this assessment of conciliar history:

> The great Councils of the Middle Ages, through their failure to bring about a true reform of the Church, contributed directly to the Protestant revolt and the subsequent fracture of western Christendom. At Trent, in the middle of the sixteenth century, the popes shook off the blandishments of the Renaissance and inaugurated a Counter-Reformation. But the new movement never fully got into orbit, owing to the inveterate politicking of many Catholic churchmen.[23]

Trent again came up during descriptions of Vatican II's first session, when recounting Trent's debate on the sources of revelation, and during the second session in the context of the schema on church membership; in both cases, Rynne/Murphy reported that Vatican II's ecumenical concerns and the desire for unity were being taken into consideration, indicating the very different circumstances of the two councils. Indeed, Cardinal Ritter of St. Louis called the schema on ecumenism the end of the Counter-Reformation. John XXIII must have been happy to hear it. Readers learned in the *New Yorker* that during the time of the first session the historian-pope told Cardinal Ottaviani, who complained to him about dissension at Vatican II, that there had been so much dissension at Trent that an Italian bishop had torn a Greek bishop's beard. Rynne/Murphy recounted that the pope reportedly then said, "Nevertheless, the Council of Trent is remembered today as one of the great events in the history of the Church."[24]

Trent and Vatican II in Catholic Publications

How does the reading Catholic public encounter Trent and Vatican II in Catholic publications? One natural place to begin is with Catholic encyclopedias and especially *The Catholic Encyclopedia* (1912) and *The New Catholic Encyclopedia* (1967; revised in a second edition published in 2003). *The Catholic Encyclopedia* article

23. Xavier Rynne, *Vatican Council II* (Maryknoll, N.Y.: Orbis, 1999), 24; the articles were first gathered in 1968 and published as a book by Farrar, Straus and Giroux.

24. Ibid., 76–92, 174, 225, 239. Trent also appeared on December 3, 1963, when Vatican II in a public session marked the four hundredth anniversary of Trent's conclusion, and during the debate on minor seminaries, which some at Vatican II said were necessary and indispensable, quoting Trent in support of their position: ibid., 260, 395. The goal, of course, was to open a window onto Vatican II, not Trent, and in this he succeeded remarkably.

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bears, perhaps not surprisingly, a certain element of triumphalism in its Trent article, concluding:

> The assembly proved to the world that notwithstanding repeated apostasy in church life there still existed in it an abundance of religious force and of loyal championship of the unchanging principles of Christianity. Although unfortunately the council, through no fault of the fathers assembled, was not able to heal the religious differences of western Europe, yet the infallible Divine truth was clearly proclaimed in opposition to the false doctrines of the day, and in this way a firm foundation was laid for the overthrow of heresy and the carrying out of genuine internal reform in the Church.[25]

The Maryknoll Catholic Dictionary provided a standard, if pious, description of Trent that toned down the triumphalism: Trent "achieved a great reformation and made an enormous contribution to the preservation of the Catholic Church."[26] By contrast, the Vatican II–era *New Catholic Encyclopedia* article, written by Jedin, was not afraid to discuss dissent and deferred decisions at Trent, noting that there was no definition of the church or papal primacy because of infighting and disagreement among the bishops and theologians. Jedin called Trent's reform decrees a "compromise . . . not an ideal solution but a serviceable one." He declared that the sixteenth-century council began a "new era" and permitted himself a late-twentieth-century hope for union.

> The new Catholic piety and mysticism, the revival of scholastic theology, the emergence of positive theology, and the art and culture of the baroque age depend upon the Council of Trent or at least are inconceivable without it. It was no mere restoration of the Middle Ages; rather it brought so many new features to the countenance of the Church that with it a new era of Church history begins. To the present-day reproach that the Council deepened the split between Catholics and Protestants and imbued the Catholic Church for a century with an anti-Protestant attitude, the answer must be that there was an absolute need to delimit clearly the Catholic faith from the Protestant confessions. A resultant anti-Protestant posture was scarcely avoidable in the given circumstances. The Council of Trent is not an insurmountable barrier for Christian reunion, as often alleged, for its doctrinal decrees, though not in need of revision, are capable of supplementation.[27]

It is harder to deal with Vatican II because it is still a lived experience. *The HarperCollins Encyclopedia of Catholicism,* under the general editorship of Richard P.

25. J. P. Kirsch, *The Catholic Encyclopedia,* 15 vols. (New York: Appleton, 1912), s.v. "Trent, Council of," 15:30a–35b, at 35b.

26. Albert J. Nevins, *The Maryknoll Catholic Dictionary* (New York: Grosset & Dunlap, 1965), s.v. "Ecumenical Councils," 198–205, at 204.

27. Hubert Jedin, *The New Catholic Encyclopedia,* 15 vols. (New York: McGraw-Hill, 1967), s.v. "Trent, Council of," 14:271b–78b, at 277b–78a. The Trent article in the 2003 revised edition is, surprisingly, nearly identi-

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McBrien, provided very straightforward, nonjudgmental, and factual articles on Trent and Vatican II when it came out in 1995.[28] Precisely the same statement cannot be made for *Our Sunday Visitor's Encyclopedia of Catholic History,* published the same year:

Since that time [Vatican II's adjournment], the Church has been faced with the major challenge in implementing the reforms and processes of modernization while maintaining Tradition and interpreting in an authentic way both the specific commands and the spirit of the council. Toward that end, both Popes Paul VI and John Paul II have issued hundreds of decrees and statements on the proper interpretation of its acts and decrees. John Paul II has been a determined champion of the authentic meaning of Vatican II and has warned against interpretations that fail to consider the continuity of Tradition or to de-emphasize or even denigrate the preconciliar church.[29]

There is another side to this coin. Writing in *Commonweal* directly after Vatican II's third session but before the fourth had begun, Hans Küng indicated that Vatican II's aftermath would be a rough ride, and he turned to history to make his point.

Is it necessary, after all that has been said, to explain why this article was given the title, "The Council—End or Beginning?"? Four hundred years ago, the small and outwardly unpretentious Council of Trent could introduce—with its limited means and with its often more negative and restorative objectives—an entirely new epoch of church history in spite of indescribable difficulties. Should not the Second Vatican Council, in spite of all the indisputable difficulties, but with completely different means and possibilities and completely different positive and constructive objectives, have the power to do this just as well—even much better? The post-tridentine epoch of the Counter Reformation has finally ended for the Catholic Church.[30]

The next year, in a very sober preliminary assessment of Vatican II, Küng warned: "Post–Vatican [II] Catholicism can assume the same rigidity as post-Tridentine Catholicism and thus fail in the task of listening anew to the Gospel of Jesus and of reading the signs of the times."[31]

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cal to the 1967 edition, with a bibliography only slightly updated. The Vatican II article in the 2003 edition (14:407a–418b) by Robert F. Trisco and Joseph A. Komonchak offers a better updating of the relevant bibliography; the article itself is longer, franker, and more complete.

28. *The HarperCollins Encyclopedia of Catholicism,* ed. Richard P. McBrien (New York: HarperCollins, 1995): R. Emmet McLaughlin, s.v. "Trent, Council of," 1267–68; Richard P. McBrien, s.v. "Vatican Council II," 1299–306.

29. Matthew Bunson, *Our Sunday Visitor's Encyclopedia of Catholic History* (Huntington, Ind.: Our Sunday Visitor, 1995), s.v. "Vatican Council II," 884–86, at 885–86.

30. Hans Küng, "The Council—End or Beginning?" trans. H. R. Bronk, *Commonweal,* February 12, 1965, 637.

31. Hans Küng, "What Has the Council Done? " trans. J. Dwyer and H. R. Bronk, *Commonweal,* January 21, 1966, 468.

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In a 1961 article in *Theology Digest,* Henri Holstein provided a clear, straightforward, and historically informed discussion about tradition at Trent. The mere fact that this article appeared in English in *Theology Digest,* shortened and translated from a French journal, is noteworthy. To the interested reader who had been hearing about Vatican II's gear-up for two years, this would have been welcome and informative reading about a matter of substance and devoid of polemics.[32] Other scholarly articles made their way into the popular press. Wilfrid Dewan treated tradition for a professional audience, the Catholic Theological Society of America, but he wrote on the same topic for the lay reader in the *Catholic World,* too. In his *Catholic World* article, he obviously sought to raise the level of conversation. The topic was John XXIII's action in November 1962 sending the draft document on the sources of revelation back to committee. Dewan noted that the discussion of tradition and scripture must take place within the ecumenical context of Vatican II. To inform his lay reader, he offered a history lesson on the *partim . . . partim* draft of Trent's statement on scripture and tradition; Dewan gave a clear presentation of the development of doctrine, complete with references not only to Trent, but also to John Henry Newman and Johann Adam Möhler.[33]

Catholic readers would also find a fairly evenhanded assessment of Trent in popular and inexpensive paperbacks. In *The Catholic Reformation* (1964), Henri Daniel-Rops was clearly no fan of Protestants, whom he called heretics. Nevertheless, his portrait of Trent was not without nuance. He noted carefully how Trent was in line with tradition, but a living tradition that develops and adapts according to changing historical circumstances. He referred to the sixteenth century's new spirit and new look: doctrine was clarified, liturgy was celebrated more worthily, priests and bishops were of higher quality, mysticism was revived because of the action of the Holy Spirit, and the entire effort was overseen by a monarchical papacy (which he evidently believed was a positive development). However, he also described rigidity, narrowness, and intolerance among adversarial churchmen—Catholic and Protestant alike—who were eager to foster religious wars.[34]

32. Henri Holstein, "The Question of Tradition at Trent," *Theology Digest* 9 (1961): 43–48, adapted from "La tradition d'après le concile de Trente," *Recherches de science religieuse* 47 (1959): 367–90.

33. Wilfrid F. Dewan, "The Meaning of Tradition," *Catholic Theological Society of America: Proceedings of the Nineteenth Annual Convention* 19 (1964): 3–13; Dewan, "Tradition Is a Living Message: Controversy over Tradition," *Catholic World,* July 1963, 238–45.

34. Henri Daniel-Rops, *The Catholic Reformation,* trans. John Warrington (Garden City, N.Y.: Image, 1964), 1:189–98. In a more journalistic book published two years earlier, however, Daniel-Rops had been more triumphalistic with regard to Trent. He labeled the council "spectacular," though he noted that the fathers at Trent had not made sufficient statements on the nature of the church and had caused disunity—two items which, he said before Vatican II began, should be on the new council's agenda: Daniel-Rops, *The Second Vatican Council: The Story Behind the Ecumenical Council of Pope John XXIII* (New York: Hawthorn, 1962), 44–49.

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Perhaps the most influential look at Trent in the context of Vatican II was Jedin's *Crisis and Closure of the Council of Trent,* published in German in 1964 and then in English three years later.[35] Jedin declared that Trent "avoided placing fetters on theological speculation" and did not fully answer the questions of the nature of the church and papal primacy because the issues "proved to be not yet ready for definition." Jedin explicitly distinguished Tridentine from post-Tridentine theology to make his point that the council itself had been judged unfairly.

> The Council of Trent is sometimes criticised today for having concentrated on this hierarchical pillar and having neglected the vault itself, the lay people of the church—for having given a one-sided prominence to the church's hierarchical structure and not having overcome the clericalism of the Middle Ages. Insofar as it refers to the council itself, the criticism is unjustified. It applies more particularly to post-Tridentine theology, the theology that resulted from the council, but not to the council itself, which was confined within narrower limits.

Jedin took care to say that Trent needed not to be revised, but to be expounded upon, and labeled Trent a council of action, not reaction, in line with the Middle Ages' focus on inner reform. Using Trent to comment on Vatican II, Jedin's picture of Trent is of a balancing act of innovation with tradition and of reforms in continuity with medieval developments that worked, at least in the short term, but needed time to be implemented. He dismissed as unfair the criticism that Trent was a council of disunion, noting that the break with the Protestants was a fait accompli, but he saw Vatican II's ecumenical emphasis as moving unity ahead in a way that Trent simply could not. While noting that Trent centralized the church, he wondered how it could have been otherwise in the Protestant context.[36]

Public lectures, later published, also made the point that Trent was neither to be abandoned entirely nor set in opposition to Vatican II. One of The Catholic University of America lectures makes the point. In his introductory treatment of the councils and church teachings, Eugene M. Burke in 1962 spoke about Trent in terms of the flowering, not closing, of theology during its meetings and in the first century to follow its conclusion, which he described as "one of the great ages in the life of Catholic theology." He pointed specifically to the "rich theological development of the doctrines of sanctifying grace and merit" as well as to the "extensive studies and reflection on actual grace and the mystery of our predestina-

35. Hubert Jedin, *Crisis and Closure of the Council of Trent,* trans. N. D. Smith (London: Sheed & Ward, 1967), originally *Krisis und Abschluss des Trienter Konzils, 1562/3* (Freiburg: Herder, 1964).

36. Ibid., 161–63, 167–70, 183–87. The epilogue of this book, entitled "The Close of the Council of Trent in the Light of the Second Vatican Council" (178–87), was originally broadcast on Vatican Radio, December 3, 1963.

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tion."[37] Likewise, Stephan Kuttner's lecture on reform declared Trent to have been honest, brave, self-aware, open, and pastoral. He took care to put Trent in proper perspective on the eve of Vatican II:

> [T]hrough various historical circumstances it has become a common attitude to take the integrated achievement of the Council of Trent apart and look at its fortification of Catholic faith as something separate from its reformatory work. From this separation there has resulted the popular image of Trent as the council which built a wall around Catholicism, a fortress within which the embattled old faith could retire, clinging ever more stubbornly (to use a hostile word), or ever more righteously, to its old forms of worship and discipline.
>
> Whoever takes the time to read the decrees and canons of Trent, and in particular, whoever reads the proceedings with all the detail recorded in the *Acta,* will soon notice that such an image is a caricature in every sense of the word. The council was far from being a docile, unanimous flock endorsing curial and papal wishes; it was also far from restricting its attentions only to those within the fold, and from shirking its duty to lead those that had torn themselves away.[38]

Readers of Richard McBrien's widely distributed syndicated column would likewise have learned that doctrine was still developing from the time of Trent, whose theologians did their best under the circumstances. In July 1966, McBrien explained how Trent talked about the Crucifixion but not the Resurrection as a sacrifice because the latter was not an issue in the mid-sixteenth century. Therefore, McBrien explained, recent theology on the Resurrection grew from Trent, whose teaching was "*accurate* (i.e., the Crucifixion was a true redemptive sacrifice), but *inadequate* (i.e., the council considered only a part of the redemptive work of Christ)."[39]

There were other praiseworthy and historically informed treatments of Trent in the popular Catholic press. A 1985 *Liguorian* article placed the aftermath of Vatican II in dialogue with Trent's second act. Trent, the author said, "changed the Church in a profound way, so much so that with it a new era of history began." He also noted that, after Trent, "More than a few Catholics were upset by the changes and reforms instituted by the Council of Trent, and many priests left the priest-

37. Eugene M. Burke, "The General Council in the Teaching of the Church," in McDonald, *The General Council,* 14.

38. Stephan Kuttner, "The Reform of the Church and the Council of Trent," in McDonald, *The General Council,* 130–31; this lecture was also published, under the same title, in *Jurist* 22 (1962): 123–42. In Ireland, F. X. Martin took the opportunity via a radio address to look back at Trent while Vatican II met, especially because of its ecumenical hopes. He also offered a very positive, though not fawning, presentation of Trent, with solid context and honesty, that avoided triumphalism: Martin, "The Council of Trent," 18–30.

39. Richard P. McBrien, column for July 15, 1966, reprinted in the collection of his columns, *Report on the Church: Catholicism After Vatican II* (San Francisco: HarperSanFrancisco, 1992), 4.

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hood as a result."[40] An article in the English *L'Osservatore Romano* in 1993 noted accurately the flexibility and adaptability with which the Tridentine *Roman Catechism* was applied in diverse cultures. The example of enculturation it gave was Latin America, where a sixteenth-century Lima version of the *Catechism* appeared in Spanish and a pair of indigenous languages.[41]

In an article in 1981 in *Homiletic and Pastoral Review,* K. D. Whitehead offered a responsible, evenhanded, balanced, and historically informed article about Vatican II. Given the journal's strong readership among priests, the article was potentially very influential, which made his approach all the more critical.[42] Whitehead attempted to put the experience of change after Vatican II in context and to calm the waters with a little history. Confusion, he noted, had occurred after all the councils now revered as authentic and authoritative, especially Ephesus and Chalcedon. He entitled the piece, "Why Vatican II Was Necessary," but confided that he feared some would disagree even with his title's presumption because they were judging the council by its immediate aftermath alone.[43] Catholics should not be surprised at the backroom politics he described, Whitehead counseled, since the council was a human event; he also noted that those who opposed the council conveniently overlooked statements by Pius IX and Leo XIII that a general council's decision are infallible and binding.

Four years later, 1985, was the council's twenty-year mark; several articles published that year in large-circulation periodicals agreed with Whitehead's historical insight that turmoil after a council is the norm. Henri de Lubac, in an interview that originally ran in *30 Giorni* and was translated into English by *National Catholic Register,* said at that time that the spiritual crisis that followed (and continued to follow) Vatican II was natural and typical, but it did not inhibit ongoing renewal: "After a first explosive phase, which could be called anarchical or revolutionary, there comes a second, in which the revolution becomes conservative with regard to itself, barring the way to a more balanced future. Occupying numerous positions, it begins to secrete structures of self-preservation. There is no need to

40. William F. McKee, "Why Did the Church Have to Change?" *Liguorian,* January 1985, 10.

41. Ana Ofelia Fernández, "Historical Perspective Sheds New Light on Most Recent Catechism," *L'Osservatore Romano* (English ed.), June 30, 1993, 10–11. It is interesting to note another article published one week later that in some ways mitigated the first article's enthusiasm about the innovation with which the *Roman Catechism* had been applied, while admitting that both the *Roman Catechism* and the new *Catechism of the Catholic Church* arrived during changing circumstances: Raúl Lanzetti, "The New Catechism Compared to the 'Roman Catechism' of Trent," *L'Osservatore Romano* (English ed.), July 7, 1993, 9, 11.

42. K. D. Whitehead, "Why Vatican II Was Necessary," *Homiletic and Pastoral Review,* February 1981, 23–32, 48–50.

43. The Bible for this approach, he noted, was Ralph M. Wiltgen, *The Rhine Flows into the Tiber: The Unknown Council* (New York: Hawthorn, 1967); Whitehead absolved Wiltgen from what he said Wiltgen's readers had done with this work and praised the book for its objectivity.

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imagine Machiavellian plottings on the part of individuals; it's simply an inevitable process, which can be turned in a different direction only with much courage and patience."[44] For the confused and worried reader, these must have been welcomed and reassuring insights.

To mark Vatican II's twenty-year anniversary, the monthly *Liguorian* devoted at least one article each issue to a Vatican II document or theme.[45] It began the year by recognizing the struggles and growing pains of moving too quickly or slowly after the council, but generally affirmed that Vatican II's agenda must proceed. *Liguorian* reassured readers in 1985 that the period after Trent was not smooth sailing, either: "There has never been a council that has not been followed by turmoil and dissatisfaction. Throughout the centuries, many Catholics have expected their Church to be the same in their adulthood and old age as it was in their youth."[46] *Liguorian*'s series ended with an excerpt from the address given by James Malone, president of the National Conference of Catholic Bishops at the time, to the U.S. bishops in June 1985. Malone offered a fair assessment of the council and urged readers to continue along its path, while recalling John XXIII's double mandate of "unswerving fidelity and bold creativity."[47]

Along with these voices in the mainstream Catholic press, readers could find in Catholic publications of more distinct constituencies a different opinion, especially of the aftermath of Vatican II. Four years after Whitehead's article in *Homiletic and Pastoral Review,* the journal ran a trio of articles with a narrower and less tolerant view than Whitehead's.[48] James Hitchcock, writing in *Crisis* in 1992, pro-

44. "Henri de Lubac on Vatican II and the Church," *National Catholic Register,* August 4, 1985, 6. Russell Shaw, writing about the same time in *Our Sunday Visitor,* said much the same thing: "Rating Vatican Council II—20 Years After," *Our Sunday Visitor,* 16 June 1985, 8–9. However, see Leonard Foley, "Vatican II: The Vision Lives On!" *Catholic Update,* March 1993, 4: in some Catholic communities, "a strangling fear of change, usually a matter of temperament, inhibits growth."

45. All of the following appeared in *Liguorian:* Robert F. Sanchez, "Vatican II: Twenty Years Later," January 1985, 2–5; William F. McKee, "Why Did the Church Have to Change?" January 1985, 9–14; James J. Higgins, "What It Means to Be Catholic Today," February 1985, 2–7; Louis G. Miller, "The Church in the Modern World," March 1985, 16–21; Terry McCloskey, "The New Liturgy: First Fruits of the Council," April 1985, 14–18; Gary Ziuraitis, "The Laity: God's People on the Move," May 1985, 12–17; Edward J. O'Donnell, "Our Bishops: Pastors of the Church," June 1985, 26–30; Michael Schwartz, "Religious Freedom: A Most Fundamental Right," July 1985, 23–27; Richard McMunn, "The Church and the Mass Media," August 1985, 38–43; Peter M. J. Stravinskas, "Will Catholic Schools Make the Grade?" September 1985, 2–6; Norman J. Muckerman, "Your Missionary Church," October 1985, 11–15; Catherine Haven, "Priestly Ministry and Religious Life: A New Vision," November 1985, 38–43; William F. McKee, "Church Unity: A Progress Report," December 1985, 20–24; James Malone, "Vatican II: The Work Has Just Begun," December 1985, 25–29.

46. McKee, "Why Did the Church Have to Change?" 10.

47. Malone, "Vatican II," 29.

48. The articles focused on the spirit of Vatican II, the *magisterium* of theologians, and church change. All appeared in the November 1985 issue of *Homiletic and Pastoral Review:* Pierre Conway, "St. Thomas Aquinas and the 'Dual *Magisterium,*'" 10–18; Edwin Gordon, "The Spirit of Vatican II," 19–23; Michael Gilchrist, "*Time, Newsweek,* and Pope John Paul II," 24–30.

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vided a relatively concise statement of a school of thought that saw much to censure in the Vatican II American church. He criticized laypeople, intellectuals, and bishops who did not share his fight against liberalism in the church. Indicting not only dissenters but those bishops who permitted them to dissent, Hitchcock represented himself as angry, as well, at what he saw as bureaucracies of liberals in parishes, dioceses, and other church organizations. The church and especially its American leaders, he concluded, had given in.[49] In 1996, *Inside the Vatican* ran a pair of unsigned articles that pilloried "the liberal juggernaut" and criticized those who fought papal primacy.[50]

Perhaps the strongest version of this position is found in Ralph McInerny's *What Went Wrong with Vatican II: The Catholic Crisis Explained.* Because of McInerny's influence, especially among nonacademics, his argument is worth exploring at some length. Early in the book, he asked: "What did the preconciliar Church look like? It would be very wrong to imagine that it was something broken and in need of repair." McInerny lamented that most priests today cannot say Mass in Latin, then noted: "And, while there certainly are more lay people milling around in the sanctuary, the pews are not as full as they were: Mass attendance has plummeted. . . . Can anyone pretend that things have improved?" He then went on not to attack but to defend Vatican II "properly understood," a phrase he used twice, against those who promote "the spirit of the council." The rest of the book largely focused on the issue of authority, which McInerny illustrated with a Fatima apparition: one of the children, Jacinta, saw the pope crying while people shouted curses and threw stones at him. "Has anyone described better the beleaguered state of the Papacy and the *Magisterium* of the Church since Vatican II?" the author asked rhetorically. This crisis of authority, however, is punishment for sins, according to McInerny, and is seen most clearly in his discussion of *Humanae vitae* in a section titled "1968: The Year the Church Fell Apart."[51] Another example of the passion that this interpretation of Vatican II arouses is seen in a favorable review of *What Went Wrong with Vatican II:*

> Dissent can no longer be tolerated. The division between the so-called conservatives and liberals is artificial and politically motivated. There is one Church and those who belong to it are its faithful. Catholicism is something we receive rather than invent.

McInerny closes this important work by suggesting that it will be by following

49. James Hitchcock, "Hijacking Vatican II: Can Catholicism Survive Subversion from Within?" *Crisis,* April 1992, 18–26.

50. "In Search of 'The Spirit of Vatican II,'" *Inside the Vatican,* January 1996, 16–19; "Fierce Wolves," *Inside the Vatican,* March 1996, 16–20.

51. Ralph McInerny, *What Went Wrong with Vatican II: The Catholic Crisis Explained* (Manchester, N.H.: Sophia Institute Press, 1998), 7–8, 12–14, 16–18, 20, 39–55.

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Mary's wishes as expressed to the children of Fatima that the promise of Vatican II will be fulfilled. Not all of us can be theologians, but we can all pray and fast, and in so doing, be instrumental in driving out the demons of dissent.[52]

Comparing the Perspectives

Sometimes, the urgency of the competing portraits of Trent and Vatican II are conveniently laid side by side. A *New York Times* article illustrated why the question of understanding the church's past and present matters: "'I have seen visceral hatred among conservative Catholics for what they see as perversions of Vatican II by the more or less mainstream left,' Michael Novak, a neoconservative Catholic author, said in a speech last year [1993]. He added that he had also seen 'at least an equally visceral hatred' from the left for Pope John Paul II and others viewed as instruments of a Vatican retreat to the past."[53] That very question of whether Vatican II was proceeding or not was taken up in Peter Steinfels's 1996 obituary of Cardinal Leo Suenens. He recounted how Suenens led the revolt against the curial agenda in the council's first days and then continued to press Vatican II's agenda through the 1970s and 1980s. The obituary pointed out that as early as 1968, after *Humanae vitae,* Suenens published a book in which he "expressed concern that the Vatican was retreating from the Council's movement toward shared responsibility and greater lay participation."[54]

If the Suenens's obituary illustrated one view of the church since Vatican II, the *Times* coverage in 1988 of Archbishop Marcel Lefebvre's episcopal ordinations and subsequent excommunication showed another. A pair of articles presented to outsiders, as well as to Catholics, one extreme of reaction against Vatican II and in support of an older Catholicism. The first article indicated Lefebvre's troublesome, even dangerous, threat to church unity. Calling him "in many ways . . . a man of lost worlds," Steinfels reviewed Lefebvre's career and noted that he eventually "declare[d] that not the Holy Spirit but the devil had inspired Vatican II."[55] It must have been troubling for Catholics and non-Catholics to read a few days after these events:

> Worshipers [after the celebration of a Latin Mass] dismissed the Vatican's view that the Archbishop created the schism, saying the Vatican is to blame by violating the tenets of traditional Catholicism. . . . "We're not rebels; the modernists are rebels," said [one church

52. Donald DeMarco, book review, *Social Justice Review,* March–April 1999, 59.

53. Peter Steinfels, "Ancient Rock in Crosscurrents of Today," *New York Times,* May 29, 1994, 1.

54. Peter Steinfels, "Leo Joseph Cardinal Suenens, a Vatican II Leader, Dies at 91," *New York Times,* May 7, 1996, B7.

55. Peter Steinfels, "A Devotion to the Past," *New York Times,* July 1, 1988, A4.

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member]. . . . Another church member . . . said, "The changes in the new church are so extreme that it is no longer recognizable as Roman Catholic. The liturgy has changed. Mass is supposed to express Catholic doctrine. But in the new church, mass is man-centered instead of God-centered. That's fine for Protestants, but we're Catholics."[56]

As this last quotation indicates, liturgy is a good way to pursue the topic of competing perspectives of pre– and post–Vatican II Catholicism, since for many it is the Mass where change is most visible. Writing a quarter century after *Sacrosanctum concilium,* which Steinfels called "one of the biggest gambles" in Catholic history, he noted that the anniversary

finds many of the reform's most informed supporters asking whether the whole effort has wandered off course. . . . But sobriety seems to be the watchword of the current reevaluation. There is a recognition that earlier hopes for immediately understandable rituals may have been naïve and that the grammar of ritual operates in indirect ways and over a period of time. . . .

In the late 1960's and early 1970's, some Catholics felt a nearly giddy sense of release from what they had come to experience as rote and obscure rituals. Liturgical planners sought spontaneity and continual innovation but often achieved only banality and weariness.[57]

Times readers would have seen these competing liturgical perspectives played out specifically with respect to the Latin Mass. After John Paul II permitted the Tridentine Mass in the mid-1980s, one Connecticut woman commented, "'This is truly worship.' . . . In the modern English mass, she said, 'you are too busy talking and jumping up and down and shaking hands and hearing political homilies.'" Another Catholic was quoted as saying, "There is a sort of sterility about the new mass. . . . The solemnity and the reverence that go with the Latin mass are the important things. It is good to get back to this."[58] A decade later, a Tridentine Mass celebrated at New York's St. Patrick's Cathedral was front-page news in the *New York Times,* where the passions were evident.

Unlike many who may be drawn to this evening's liturgy either out of love of an ancient language or nostalgia for the familiar ritual of their younger days, advocates of the old rite . . . see it as a vaccine against the toxins of modern culture, a means of maintaining the purity of the church's beliefs and the fidelity of its believers.

. . . The old rite "allows me to depart from Mass at peace instead of enraged," said Roger A. McCaffrey, the publisher of *The Latin Mass,* a quarterly with 16,000 subscribers.

56. Ari L. Goldman, "Worshipers See Martyrdom in Defiance," *New York Times,* July 4, 1988, 25, 28.
57. Peter Steinfels, "Catholics Still Seek the Poetry of the Mass," *New York Times,* December 11, 1988, E26.
58. Patricia Behre, "Latin Rite Returns to Catholic Worship," *New York Times,* March 30, 1986, CN1.

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"I hear that all the time from people who are fed up with the garbage that goes on at the typical parish Mass these days," he added, such as "females in the sanctuary," the area near the altar, and "irreverence before the Blessed Sacrament."

Yet again, however, the *Times*'s coverage was notable for its evenhandedness, illustrating a variety of opinions along the theological spectrum. The article also pointed out that the St. Patrick's Mass would be deliberately elaborate: "It will be almost as distant from the hurried Tridentine Masses that older Catholics experienced in their 1950's parishes as from the folk-rock Masses of their 1990's parishes."[59]

An insider's approach to the issue of older and newer liturgies that appeared in a Catholic publication is a thoughtful 1994 *America* article, "Beyond Nightmares and Dreams: Trent and Vatican II." The author took as his subject how the Tridentine liturgy issue had fared since its reinstatement a decade earlier when, he recalled, someone called him to say, "What do we do now? The Tridentine Mass is back. Vatican II is being undone." Presenting well and fairly several sides of the matter, he summarized, "For some it is a dream come true: the recovery of a lost treasure and the reversal of a terrible mistake. For others, it is a nightmare: the abandonment of the council that made the liturgy accessible and the church credible." He also provided solid historical context: "Four hundred years of reverence for uniformity have helped Catholics forget that liturgical standardization was really an innovation of the Council of Trent. Before that, the church knew sixteen centuries of distinct liturgies for different regions, dioceses, cities and religious orders, each without prejudice to any other." In Scranton, Pennsylvania, where the priestly fraternity of St. Peter took up its North American headquarters in 1992, the author found at a solemn, high Tridentine Mass warnings in the sermon and mass books against liturgical expressions that were somewhat less majestic and mysterious than the Tridentine Mass—clearly a reference to liturgies since Vatican II. But the author remained unbaited and noted that the Tridentine Mass can be a source of unity and not division. How might this be accomplished?

Avoid labels like "traditional" and "new." Calling the Tridentine liturgy "traditional" conveys the idea that the liturgy of Vatican II is somehow a departure from the tradition; labeling the latter mass "new" (*"Novus Ordo"*) does the same. . . . Often, when the liturgical reforms of Vatican II are being promoted, they are presented in opposition to the liturgy of Trent. More accurately, the reforms of Vatican II grew out of the previous reform and aim at the same thing: adaptation to the needs of the day. . . . The active participation

59. Peter Steinfels, "New York to Hear Mass in Latin, Language of Catholic Discontent," *New York Times,* May 12, 1996, 1, 16.

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and the simplicity of the Vatican II liturgy speak for themselves; so do the splendor and beauty of the Tridentine Mass. In the catechesis surrounding either one, we need not resort to attacks against the other.[60]

Such sanity was surely welcome to the debate—or was it? Can common ground be reached? What is the state of the effort to understand and reconcile a "Tridentine church" (which scholars say was not what Trent had in mind) with a "Vatican II church" (that is still struggling to identify itself)? One insight came from an exchange about church history and its meanings between James Hitchcock and John W. O'Malley in *Commonweal,* March 2001. The exchange was prompted by an article the previous September that compared two versions of recent history "competing for our allegiance."[61] The first version was described as one generally opposed to modernity and supporting papal centralization; the second seeks to garner the good and avoid the bad of liberalism and modernism, while "the papacy embraced a practical anti-intellectualism and witch-hunting strategy that stifled Catholic thought for half a century." If the champion of the first version is John Paul II, then the champion of the second is Vatican II; their common story is the perceived struggle between the two. Robert J. Egan opened the two versions for debate:

> We need to have a public conversation about this history now, which means that many more of us need to become familiar with it. It is a conversation in which many different kinds of expertise will be required and welcomed, but it is not an issue that can be left to specialists, since it bears directly on how we all understand ourselves as Catholics today and as a messianic people entrusted with a mission. I think it would be good for *Commonweal* to talk about this history and to solicit some further thoughts about it.

Hitchcock's article was largely about modernity and modernism; it attempted to show that Vatican II, from his perspective, did not break with the past. He recounted how Pius IX saw liberalism; considered the definition of papal infallibility "a declaration of the church's independence from all secular authority"; and described a strong papacy as "necessary to provide local churches with the resources

60. Albert M. Liberatore, "Beyond Nightmares and Dreams: Trent and Vatican II," *America,* April 16, 1994, 16–17.

61. Robert J. Egan, "Continuing the Conversation," *Commonweal,* September 8, 2000, 7–8; James Hitchcock, "Version One: A Continuum in the Great Tradition," *Commonweal,* March 9, 2001, 16, 18–19; John W. O'Malley, "Version Two: A Break from the Past," *Commonweal,* March 9, 2001, 17, 20–22. O'Malley later expanded some of his points in "The Style of Vatican II," *America,* February 24, 2003, 12–15. On modernism in historical context, see Marvin R. O'Connell, *Critics on Trial: An Introduction to the Catholic Modernist Crisis* (Washington, D.C.: The Catholic University of America Press, 1994); and Thomas Michael Loome, *Liberal Catholicism, Reform Catholicism, Modernism* (Mainz: Matthias-Grünwald Verlag, 1979).

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to resist secular encroachments on their liberties." Hitchcock proceeded to dismantle liberal religion, saying it would not exist a generation hence; rather than convert nonbelievers to religion, it "persuades believers that they do not need religion at all." The way out of the current state of the church, he concluded, was to reassert orthodoxy and restore the church's credibility and relevance, especially in the face of what he identified as liberal triumphalism. O'Malley contrasted Trent and Vatican II in a number of ways. Trent's language was prescriptive, closed, and top-down; Vatican II's documents "read more like invitations than injunctions." Most of the rest of his article was a discussion not of the "whats" of Trent and Vatican II, but of their different "hows" when it came to the style of a living church. Toward this end, he noted Vatican II's new aspects: dialogue, horizontal thinking, openness, participation, collegiality, and decentralization. But, he concluded, the irony is that under John Paul II, the church had become as papal as it had ever been.

A Final Perspective

It appears that we are still faced with simplistic, but dangerous, dichotomies. If you love Trent, you hate Vatican II. If you hate Trent, you love Vatican II. In general, the polemics (typically backed by unequal levels of sound scholarship) demonstrate that the caricatures of Trent and Vatican II do indeed persist, if not when people are specifically talking about Trent and Vatican II, then usually in the language of the "old" and "new" church or Mass, "then" and "now," or "before" Vatican II and "after." Contemporary fear of change and reform—especially concerning subsidiarity, collegiality, episcopal accountability, and lay participation—comes in part from misunderstandings of what Trent and Vatican II were all about. Really understanding Trent and Vatican II is therefore critical as Catholicism wrestles with these issues at the dawn of its third millennium.

With good scholarship available separating Trent and its first century from the more popular sense of the "Tridentine church," as well as informing Catholics and non-Catholics that what's happening with Vatican II is par for the historical course, why do the caricatures persist among a wider audience? It is possible that the popular misunderstandings of Trent and Vatican II make the classic apple-and-orange mistake. Trent is not the Tridentine church, as scholars have been demonstrating since at least the early 1960s, and Vatican II is unfinished business. Yet many Catholics still mistake Trent for the 1950s and want Vatican II to be settled already. Is the misperception of Trent accepted because it is safe, se-

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cure, clear, and steady—even if it is simultaneously, from a historical perspective, flawed, polemical, and caricatured—because the lived experience of the church after Vatican II is uncertain, in flux, and always changing? Provisionally, we must say yes. However, much can be learned from the insight that Vatican II completed Trent, in some senses, and both were—in their own ways and times—innovative, creative, and faithful to tradition. We must also remember that historians can see Trent and what followed after four centuries fairly clearly, but when it comes to Vatican II, journalism continues to write the first draft of history that Catholics are themselves still living.

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Afterword

Reflections on a Half Century of Conciliar Studies

BRIAN TIERNEY

The introduction to this rich collection of essays includes a generous appraisal of my old work *Foundations of the Conciliar Theory*.[1] The editors suggested that, to provide a sort of coda or epilogue, I might explain how I came to write the book fifty years ago and reflect a little on the later development of conciliar scholarship. So I will first describe the origin of the book and something of its content, and then mention some aspects of conciliar thought that were not treated in the book but that have been taken up by later scholars—including in contributions to the present volume. Then, finally, I would like to discuss a broader theme, our emerging understanding of the place of conciliarism in the whole history of Western constitutional thought, and its present-day significance, if any.

Writing about one's own work is a task that must appeal to the vanity of an author; it is a self-indulgent thing to do; but it can also evoke a degree of humility. I remember once long ago complaining to my mentor at that time, Water Ullmann, about my lack of preparation in some relevant field. Walter replied, a little crossly, "And when you are eighty, do you think you will know everything then?" And now that I have passed eighty I realize how right he was and how much there is

1. *Foundations of the Conciliar Theory: The Contribution of the Medieval Canonists from Gratian to the Great Schism* (Cambridge: Cambridge University Press, 1955; repr., 1968; rev. ed., Leiden: Brill, 1998).

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that I don't know. And of course, when I wrote *Foundations,* there was even more that I did not know about various areas of medieval theology, philosophy, and political theory, all of which would have been relevant in a complete account of medieval conciliarism. But my ignorance was perhaps not altogether unfortunate. If I had tried to write about *all* the foundations of conciliarism I could only have spent many years producing a sprawling, probably misshapen work that in the end would have been an inadequate endeavor. Because the book dealt with only one class of sources it had a certain unity and (I think) clarity of argument; and of course it was important that the sources I studied turned out to be of considerable significance in the evolution of conciliar thought.

As to how the book came to be written: like most of my generation I was caught up for several years in World War II—in my case serving in the Royal Air Force—so I came rather late to academic life. Having survived the war, by a lucky chance I had an opportunity to study at Cambridge. I would have been twenty-four then. I took a hasty, contracted two-year course for the B.A. degree that was made available to war veterans, and then Walter Ullmann agreed to accept me as a research student. Walter was at that time beginning to introduce the study of medieval canon law into the English scholarly world, and he suggested to me as a research topic for a Ph.D. dissertation "Pope and General Council in the Writings of Medieval Canonists." I accepted, of course, though indeed I knew little about medieval conciliarism and almost nothing about medieval canonists. And it did not at first seem self-evident that the topic would prove to be a fruitful subject for research. In English universities in those days, the canonists were known primarily, if at all, as defenders of papal absolutism in the medieval conflicts of church and state. Hastings Rashdall, in a standard history of medieval universities, summed up their achievement as "a marvelous jurisprudence of spiritual despotism."[2]

At that time there were two well-known explanations for the origins of conciliar thought. The most widely accepted one held that the conciliar theories were derived from heretical views propounded by William of Ockham and Marsilius of Padua at the beginning of the fourteenth century. But this account left open the question of whether Ockham and Marsilius had derived their own ideas from still earlier sources. As E. F. Jacob wrote, "In Conciliar studies . . . we are frequently told that this or that view 'is to be found in Ockham' and there the matter is unsatisfactorily left."[3] A different point of view was presented by J. N. Figgis. He

2. Hastings Rashdall, *The Universities of Europe in the Middle Ages,* vol. 1 (Oxford: Clarendon, 1936), 139.
3. E. F. Jacob, *Essays in the Conciliar Epoch* (Manchester: Manchester University Press, 1943), 85.

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thought that the conciliarists had simply imitated the representative institutions of secular states and given a sophisticated formulation to the underlying principles that they embodied. And then, Figgis argued, the conciliarists' theories in turn influenced secular thought. Figgis regarded conciliarism as a revolutionary innovation in the sphere of church government, "a reaction against the canonist theory of sovereignty," a break with "the Divine authority of a thousand years."[4] But he never explained how the secular structures of government that provided a model for the conciliarists had grown into existence. Figgis apparently regarded constitutional government as normal and natural in the secular sphere, not calling for any explanation, and monarchical absolutism as the normal and natural form of government for the Catholic Church.

Having grown up in an age of absolutism—the age of Hitler and Stalin and Franco and Mussolini—I was never persuaded by the first assumption. And, as I came to know the works of the canonists, I realized that their theories of papal sovereignty were much more nuanced than Figgis had supposed. Walter Ullmann suggested that I start with the *Decretum* of Gratian from about 1140, the first volume of the medieval corpus of canon law, along with its Ordinary Gloss, completed in 1214. So one summer day in 1948 I went to the college library, took out a sixteenth-century edition of the *Decretum* complete with the marginal gloss, opened it at Distinction (Distinctio) 1, c. 1 and, summoning up the remains of my high school Latin, started trying to read it. It grew easier as I went on.

The *Decretum* is one of the great foundational works of Western jurisprudence but, since it is more admired than read, it may not be redundant if I say a little about the book and what I found there. Gratian's work was not just a compilation of twelfth-century canonical regulations. It reached back into the past to quote many passages from early councils and early church fathers, and so its texts often reflected the more collegial and conciliar style of government of the early church. I was fortunate in my first approach to the work because some of the texts most relevant for my research came in the early sections of the book. Here are a few examples. Already at Distinctio 4 I came upon the words, "Laws are instituted when they are promulgated; they are confirmed when they are approved by the practice of those using them." Later on whole theories of reception by the people as a necessary ground for the validity of law would be built on these words—Jean Gerson quoted them as an argument against applying to the pope the absolutist text of Roman law, "What pleases the prince has the force of law."[5] What I

4. J. N. Figgis, *Studies in Political Thought from Gerson to Grotius, 1414–1625,* 2nd ed. (Cambridge: Cambridge University Press, 1916), 50, 31.

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noticed at first, though, was a gloss on this passage that asked, What if the pope promulgated a law and all the bishops refused to obey it? Who should be obeyed, pope or bishops? It surprised me that the question should be raised, but the gloss reassuringly suggested that the pope should be obeyed. But then it added a final comment that surprised me again. It said that the pope should be obeyed unless he erred in faith.[6] I was reading this in 1948. The pope was not supposed to err in faith. He was supposed to be infallible.

At Distinctio 15 I encountered a text on the authority of general councils. Here Pope Gregory the Great was quoted as saying the first four councils were to be obeyed like the four gospels "because they were established by universal consent." A gloss here asked whether the pope too, then, was bound by the decrees of councils, but here it only cited arguments for and against the different opinions.[7] Later I found that the common opinion of the canonists was that the pope was so bound in matters touching the faith and "the general state of the church." Then at Distinctio 19 there came a text asserting that an early pope actually had erred in faith and had accordingly been rejected by the church. And here the gloss commented simply, "Where matters of faith are concerned . . . a council is greater than a pope."[8] This text became a common starting point for a very profuse literature among the canonists about how the church could deal with an erring pope. Some held that a pope could be judged only for heresy, others that he could be deposed for any notorious crime. Some said that a council could judge the pope, others that the cardinals could do so. Some maintained the pope should be regarded as self-deposed and another elected in his place without any formal trial.[9] Everyone agreed that the church had an inherent power to rid itself of a pope who was leading the church into error. The canonists' discussions on this question anticipated all the twists and turns of the later arguments of political theorists about the deposition of unjust kings.

A modern reader might well be surprised at the freedom with which twelfth-century decretists envisaged the possible sins and errors of popes. A particularly lurid passage came from the great canonist Huguccio, writing circa 1190: "Look then! He steals publicly, he fornicates publicly, he commits simony publicly, he keeps a concubine and has intercourse with her publicly near the altar or on it. And, being admonished, he will not desist. Shall he not be accused? Shall he not be

5. *De potestate ecclesiastica,* in OC, 6:215.
6. Ordinary Gloss to Dist. 4, c. 3, s.v, Iudicent.
7. Ordinary Gloss to Dist. 15, c. 2, s.v. Presumit.
8. Ordinary Gloss to Dist. 19, c. 9, s.v. Abegerunt.
9. For texts presenting these various viewpoints see my article, "Pope and Council: Some New Decretist

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condemned?"[10] Such texts were not forgotten. A century later Pope Boniface VIII was accused of a variety of colorful offenses during his conflict with King Philip the Fair of France. And, at the Council of Constance (1414–18), Pope John XXIII was deposed, not for heresy, but for alleged notorious crimes.

The decretist texts were many-sided. The same Distinctio 19 that referred to an erring pope also quoted the famous words of Christ to Peter. "Thou art Peter and on this rock I will build my church." Here a gloss explained that the rock on which the church was built was not Peter but the faith that Peter had declared.[11] It also gave a reference to a later text that said that the Roman church had never erred, and here the gloss gave a further explanation: "What is this church that cannot err? Certainly the pope can err. But here the congregation of the faithful is called the church and such a church cannot not be."[12] Again, I later found that this was a common opinion among the canonists. The promise of unfailing faith made to the church was taken to mean either that the whole church in council could not err or that somewhere in the church, though not necessarily in the pope, the true faith would always survive.

I will mention one more text. Distinctio 79, c. 2 raised the question of a possible papal schism. What should be done if two were elected to the papacy? One opinion held that the cardinals should summon a general council to judge the issue; and of course that is exactly what did eventually happen two centuries later when the cardinals summoned the Council of Pisa (1409) in an attempt to end the scandal of the Great Schism. It will probably be evident why, after a few months' work, I was beginning to discern some foundations of the later conciliar theory in early church law.

My work did not end with the decretists. I next toiled through the thirteenth-century commentaries on the *Decretales* of Gregory IX, promulgated in 1234, and at this point I became involved in studying the intricacies of canonistic corporation law. It was a complex task. There is not one single section of the *Decretales* that deals with the subject; it has to be investigated by studying a variety of scattered cases and an intricate structure of cross-references. I thought intuitively that this material must be important but at first did not see how it could be relevant. Eventually, though, I realized how corporation law, applied to the whole church considered as a *universitas fidelium,* a corporate body of the faithful, could

Texts," *Mediaeval Studies* 19 (1957): 197–218.

10. Huguccio, Ordinary Gloss to Dist. 40, c. 6, s.v. Nisi. The full text of Huguccio's gloss is printed in *Foundations.*

11. Ordinary Gloss to Dist. 19, c. 7, s.v. Et super hanc petram.

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give a juridical structure to the rather vague assertions of the decretists about the underlying authority of the universal church. Considered as a corporate entity the church could exercise its own inherent jurisdiction and legislate for itself through its own representatives, and so I wrote—a little pretentiously (for I was still young)—that "the conciliar theory . . . sprang from the impregnation of Decretist ecclesiology by Decretalist corporation concepts."[13]

The dissertation on which the book was based was finished in 1951. I worked on revising it during the next two years while teaching at Catholic University, sent it off to the press in 1953, and it was eventually published in 1955. The book was generally well received by historians though, as Hans Küng later observed, it was almost ignored by dogmatic theologians.[14] But at that time there was no occasion for dogmatic theologians to take note of such a work. In 1955 we were still living in the pontificate of Pope Pius XII, a time when the papacy had reached the apex of its sovereign power over the whole Catholic Church—or so we thought then. The governance of the church by a highly centralized papal monarchy was taken for granted. Probably most Catholics believed that the church had always been structured in that way and always would be. There was (and still is) a sort of resolute ahistoricism among the Catholic faithful, a reluctance to believe that the institutions and practices of the church have changed in the course of the centuries.[15] Moreover, it was widely assumed that the doctrines of papal sovereignty and infallibility promulgated at the First Vatican Council (1869–70) had rendered unnecessary the summoning of any further councils in the future. In those circumstances there was indeed no reason why a theologian should take note of a monograph on medieval conciliarism. To Protestants the conciliar movement was just one more failed attempt at reform by an inherently flawed Catholic Church; to most Catholics it was just a panic-stricken response to the crisis of the Great Schism, best forgotten or at least ignored.

The situation was transformed in 1959 when Pope John XXIII startled the world by announcing the summoning of a new general council. Soon a flood of work on the history of councils began to appear and, rather unexpectedly, much of it focused on the Council of Constance. One reason for this was that, among the leaders of the new council, there were some reform-minded prelates who wanted

12. Ordinary Gloss to C. 24 q.1 c. 9, s.v. Novitatibus.

13. *Foundations,* 245 (221–22).

14. *Strukturen der Kirche* (Freiburg: Herder, 1962), translated by Salvator Attanasio as *Structures of the Church* (New York: Nelson, 1964). For Küng's observation on the reception of Tierney's book, see *Structures,* 59n9.

15. Rick Santorum, a conservative Catholic who was a United States senator, has been quoted as saying. "[T]he church is not going to change. . . . It is going to stay the way it has been for 2000 years"; see *New York*

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to establish a more collegial style of government for the Catholic Church; and the councils of the fifteenth century provided the best historical precedent for such a reform. Above all they provided an example of councils that were not subservient to a papal bureaucracy—which seemed a likely outcome of the Second Vatican Council (1962–65) in its opening sessions—but that claimed an inherent authority of their own as representing the Catholic Church.

There were two themes of *Foundations* that especially appealed to some of the *periti* who advised the reformers at Vatican Council II. First: The conciliar theory of church government was not something accidental or external, thrust upon the church from outside, but a logical culmination of ideas and institutions that were embedded in the law and doctrine of the church itself. And again: in medieval thought, alongside the idea of the church as a hierarchy of clerical offices there always existed another idea of the church as a community of believers, a universitas fidelium, sustaining its own unfailing corporate life; and, in this way of thinking, supreme authority in the church could be seen as inhering in the whole body of the faithful and not only in its head. Evidently, around such passages one could build an ecclesiology different from the high papalism of the time when I wrote them. And so my innocent little book, written in a different intellectual climate and without any polemical intent, was drawn into a debate about the right ordering of the church in the modern world.

The central decree of the Council of Constance, *Haec sancta,* declared that the pope was bound by decrees of general councils in matters touching the faith, the reform of the church, and the ending of the schism. Soon after Vatican Council II assembled, a vigorous debate grew up about the validity of this document and about its precise meaning. An early contribution came in 1962 in Hans Küng's book *Strukturen der Kirche* (soon translated into English as *Structures of the Church*).[16] The very title of the work was significant. A typical theologian of that time would have written about "the structure of the church," not about "structures." But Küng was concerned to argue that the theological concept of an absolute papacy established at the foundation of the church and enduring through the centuries was at variance with the facts of church history. As part of his argument he gave a long, ten-page summary of the content of my book, which no doubt made it known to many people who had never seen the original work. Cardinal Koenig of Vienna, for instance, one of the leaders of the council, referred to the argument of the book in an address given in 1964. He saw the conciliar doctrine of Constance as rooted in canon law and as providing a compromise between extreme papal-

Times Magazine, May 22, 2005, 56. The senator was referring to the election of Pope Benedict XVI.

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ist and extreme democratic theories of church government. Cardinal Koenig even suggested that the new council should seek to achieve a synthesis between the teachings of the Council of Constance and those of Vatican Council I.[17]

Other writers in the debate about *Haec sancta* used *Foundations* in a variety of ways and for different purposes. Some conservatives simply condemned the decree of Constance as a heretical aberration from the established faith of the church. Joseph Gill, for instance, complained that "the principle of the superiority of council over pope, forgotten and denied in the intervening centuries, is being revived." Gill wholeheartedly accepted my argument that the conciliarism of Constance was rooted in earlier canon law; but he held that, precisely for that reason, its "foundations and presuppositions were insecure." Because the foundations were merely juridical they lacked theological validity.[18]

The supporters of the validity of *Haec sancta* commonly cited *Foundations* to prove that the content of the decree was derived not from heretical sources but from orthodox and traditional teachings; but there were many nuanced points of view among them. Some held that *Haec sancta* was valid but only as an emergency measure in the crisis situation of 1415, others that the decree was intended to apply to similar crises that might arise in the future, others that it promulgated a valid constitutional law for the future governance of the church, and still others suggested that *Haec sancta* was a dogmatic definition of faith. I have come to think that these modern nuanced opinions reflect similar nuanced differences among the fathers of Constance themselves and that the wording of *Haec sancta* was ambiguous, and probably deliberately so.[19]

It is at any rate clear that the authors of *Haec sancta* and of the subsequent decree *Frequens,* calling for the frequent meeting of general councils in the future, were convinced that even the holder of a divinely ordained office—especially the holder of a divinely ordained office—must be accountable to the church if he grossly abused the powers of the office. They also believed that such a one had a duty to rule in a way that would promote the health and vigor of the church entrusted to him—and they did not think that centralized absolutism provided such a way of ruling.

16. See especially Küng, *Structures,* ix–x.

17. Franz Koenig, "Die Konzilsidee von Konstanz bis Vaticanum II," in *Konzil des Einheit: 550-Jahrfeier des Konzil zu Konstanz* (Freiburg: Herder, 1964).

18. Joseph Gill, "The Fifth Session of the Council of Constance," *Heythrop Journal* 5 (1964): 131–43; idem, "The Canonists and the Council of Constance," *Orientalia christiana periodica* 32 (1966): 528–35.

19. My own understanding of *Haec sancta* was set out in two articles published after *Foundations:* "Hermeneutics and History: The Problem of *Haec sancta,*" in *Essays in Medieval History Presented to Bertie Wilkinson,* ed. T. A. Sandquist and Michael R. Powicke (Toronto: University of Toronto Press, 1969), 354–70; "'Divided Sover-

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Studies on the decrees of Constance have continued to multiply down to the present time. But I want to turn now to some other aspects of conciliar thought that were not treated in my book. Although most reviewers were friendly to the work, some of them understandably called attention to its shortcomings; they noted especially that, in relying only on canonistic sources, I had not presented a complete picture of the growth of conciliar thought. And that is true, of course. Some critics pointed out that many of the leading conciliarists were theologians, not jurists, and that I had failed to treat the theological dimension of conciliarism; others noted that I had failed to consider the relationship between secular constitutional structures and church polity or the influence of secular political theory on conciliar thought.

I was aware of these shortcomings when I wrote *Foundations,* though unprepared to deal with them in that book. As regards theological influences, though, the original thesis on which the book was based did include an appendix on the thought of William of Ockham. I must have been happily confident in those days, for I wrote that it would be "merely cowardly" to ignore Ockham in a work on conciliarism. In the appendix I argued that the specific doctrines that Ockham transmitted to the conciliarists were themselves derived from canonistic sources. This material, in a revised form, was published in a subsequent article, and there I noted that the real difficulties of interpretation arose not when Ockham gave a string of canonistic citations, which he did often enough, but when he echoed a canonistic doctrine without any reference to his source.[20] The same is true also of later conciliar writings; hence it is often difficult to disentangle the streams of canonistic and theological thought in these works. The canonists who commented on Gratian's *Decretum* were often discussing texts drawn from early church fathers or passages of scripture, including the famous Petrine texts that were embedded in Gratian's authorities—materials that we should now think of as theological sources; and theologians who wrote on church government often relied on earlier canonistic teachings. For instance, the views of Pierre d'Ailly and Jean Gerson on church government were very similar, but d'Ailly frequently cited canonistic texts in presenting his views, Gerson very seldom. Some of the major thinkers of the conciliar age were at home in both disciplines. Cusanus was a canonist by training whose works were infused with theological insights; John of Torquemada was a theologian who wrote extensively on canon law.

A complete history of conciliar thought would certainly have to discuss a large

eignty' at Constance: A Problem of Medieval and Early Modern Political Theory," AHC 7 (1975): 238–56.

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body of theological writing. It would also have to consider some secular influences on conciliarism, including Roman law, Aristotelian political philosophy, and the examples of medieval city republics. There is only a passing reference to this aspect of conciliar thought in *Foundations,* but it now seems to me a field especially worth pursuing. After all the specialized writing of the past fifty years, a continuation of such work might lead to a broader synthesis that would treat conciliarism as one significant strand in the general development of Western constitutional thought.[21] Various studies by Francis Oakley, building on a suggestion of Figgis, have shown how conciliar ideas continued to influence the secular constitutional thought of the sixteenth and seventeenth centuries, but that is only part of the story, though an important part. The influences ran in both directions. Ever since the twelfth century constitutional ideas had been growing up side by side in church and state, each constantly influencing the other. And the basic structures of Western government grew out of this constant interaction.

One could give many examples of the interplay between the two spheres of the spiritual and temporal powers. Jeannine Quillet has observed that in the Middle Ages the practice of representation "starts out in ecclesiastical institutions and spreads out from there to the purely temporal structures of society."[22] It is true that there were church councils before there were any parliaments or estates-general and that some religious orders, especially the Dominicans, had complex structures of representative government already in the early thirteenth century. But church lawyers built their ideas about representation and consent around phrases like "full power" (*plena potestas*) and "What touches all is to be approved by all" (*quod omnes tangit*) that they borrowed from Roman secular law. The canonists gave a new meaning to these phrases of private Roman law, in effect turning them into principles of constitutional government, by adapting them for use in their discussions on the summoning and membership of church councils.[23] Then, charged with this new significance, the canonists' language was reabsorbed into the secular sphere. King Edward I of England used both phrases in summoning representatives to a parliament held in 1295.

Although the conciliarists had a rich heritage of law and theology to draw on,

20. "Ockham, the Conciliar Theory, and the Canonists," *Journal of the History of Ideas* 15 (1954): 40–70.

21. I attempted to sketch an outline of such a synthesis in *Religion, Law, and the Growth of Constitutional Thought* (Cambridge: Cambridge University Press, 1982).

22. Jeannine Quillet, "Community, Counsel, and Representation," in *The Cambridge History of Medieval Political Thought, c.350–c.1450,* ed. J. H. Burns (Cambridge: Cambridge University Press, 1988), 520–72, at 527.

23. *Plena potestas* was the "full power" that a community could grant to a representative. *Quod omnes tangit* expressed the principle "What touches all is to be approved by all." It was cited to prove that even the laity should be represented at a general council when matters of faith were to be discussed, since the matter evidently

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they also sometimes cited the example of Italian city republics. Panormitanus referred to the government of Venice[24] and, as David S. Peterson has pointed out in this volume, there were also links between conciliarism and the civic humanism of Florence. I once suggested that civic humanism and conciliarism might be seen as "different rhetorical strategies" through which the communal ethos of the Middle Ages was transmitted to the early modern world.

Perhaps the best example of the interweaving of secular and ecclesiastical concepts (both canonistic and theological ones) in conciliar theories and in the growth of constitutional thought generally is the idea of a mixed constitution, including elements of monarchy, aristocracy, and democracy, that we find in various conciliar treatises, including those of d'Ailly and Gerson.[25] The concept of a mixed constitution is ancient, of course, and secular in origin; medieval writers knew of it primarily through the *Politics* of Aristotle. The idea was first taken into Christian theology in the massive *Summa theologiae* of Thomas Aquinas at a point where the author wanted to argue that God had given the best form of government to his chosen people in the Old Testament. Thomas first wrote that in the best form of rule, "all should have some part in government"; then, with a reference to Aristotle, he explained that this end was best achieved in a mixed constitution. Aquinas next asserted, with some creative exegesis of the texts of Exodus and Deuteronomy, that God had indeed given such a constitution to the children of Israel. Moses ruled over all as a kind of king, the seventy-two elders formed an aristocracy, and there was an element of democracy in that the rulers were chosen from all the people and the people could choose their rulers. Thomas concluded: "Such is the best polity. It is well mixed, from kingship in that there is one at the head of all, from aristocracy insofar as a number of people hold authority on account of virtue, from democracy, that is the power of the people, insofar as the rulers can be chosen from the people and the choice of rulers belongs to the people."[26]

In the next generation, around 1300, another Dominican, John of Paris, repeated Aquinas's argument and then added that this mixed form of government would be the best constitution for the existing church. "It would certainly be the best form of constitution for the church if under one pope many were chosen by

"touched" them. See, for instance, Ordinary Gloss to Dist. 96, c. 4, s.v. Pertinet.

24. See Antony J. Black, *Monarchy and Community: Political Ideas in the Later Conciliar Controversy* (Cambridge: Cambridge University Press, 1970), 41; idem, *Council and Commune: The Conciliar Movement and the Fifteenth-Century Heritage* (London: Burns & Oates, 1979).

25. On all the forms of mixed government mentioned in the following discussion, with references to the original sources and relevant quotations, see James M. Blythe, *Ideal Government and the Mixed Constitution in the Middle Ages* (Princeton: Princeton University Press, 1992).

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and from each province so that all would participate in some way in the government of the church."[27]

So far the argument had been based on Aristotelian and scriptural sources. At this point a canonistic element came into the discussion. The great thirteenth-century canonist Hostiensis had maintained that the cardinals shared in the jurisdiction that inhered in the Roman see. A contemporary of John of Paris, the Franciscan Peter John Olivi, took up this argument and then asserted further that, since the cardinals shared in the papal power, they formed an aristocratic element in a mixed government of the church. In this form the idea of an ecclesiastical mixed constitution reappeared in the conciliar writings of d'Ailly and Gerson. They both treated the cardinals as an aristocratic element in a mixed government consisting of pope, cardinals, and general council. Both of them repeated the argument of Aquinas, but d'Ailly reinforced his claim for the cardinals with some relevant canonistic citations; Gerson was content to quote Aristotle and the Bible.

The idea of a mixed constitution persisted as a central element in secular constitutional thought during the following centuries. The tradition was influenced by various classical models, but also by the formulation of the conciliar thinkers. Their teaching on pope, cardinals, and general council could more readily be transposed into a doctrine of king, lords, and commons as a form of mixed government for a national kingdom than ancient models based on the institutions of a classical city-state. In 1642, seeking a last-minute compromise on the eve of the Civil War, King Charles I declared that England was indeed ruled by such a mixed government.

Most important of all in the growth of constitutional thought was the assimilation of the Roman law concept of a corporation into ecclesiastical jurisprudence. In Roman law a corporation was seen as a collection of individuals that was assumed to have a single juridical personality. The church lawyers married this secular concept of a corporation to the Pauline idea of the church as the body of Christ, and adapted it to fit the facts of ecclesiastical life. In the church a corporate body typically consisted not of undifferentiated individuals, but of a head and members—bishop and chapter, pope and council—and according to a widely held canonistic teaching, the fullness of jurisdiction was held to inhere in the whole body, head and members together, and not in the head alone.

In this form corporation law could provide a model for both moderate concil-

26. *Summa theologiae* 1.2ae.105.1.

27. *De potestate regia et papali,* in *Johannes Quidort von Paris: Über königliche und päpstliche Gewalt,* ed. Fritz Blei-

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iarism and the emerging concept of a constitutional state. Around 1200 an English canonist wrote, "The pope with a council is greater than the pope without a council." The thought was repeated by John of Paris a century later and by Gerson at the time of the conciliar movement. Then the same idea appears in the secular sphere. In 1542 King Henry VIII of England declared: "We be informed by our judges that we at no time stand so highly in our estate royal as in time of Parliament when we as head and you as members are conjoined and knit together in one body politic."[28] Gerson would have understood that well enough.

A striking feature of the interplay between ideas on secular and spiritual government that helped to shape the Western constitutional tradition in the Middle Ages is the catholicity of thought that we find in the greater figures of that time. In an age of great intellectual vitality the church showed itself open to the whole world of secular wisdom—even wisdom from non-Christian sources—in seeking to explicate its own nature and structure.[29] But in all this interplay the church was never just a passive recipient. The ideas that it took from Roman law and Aristotelian philosophy were reshaped and given back to the world charged with new meaning and force. Nicole Oresme wrote in the fourteenth century that the governance of the church should be "a mirror and example for other polities."[30] It is a dream that we have lost.

One final question remains. Does all the current scholarship on medieval conciliarism have any relevance for the life of the modern church? Or, to put it differently: Why do conciliar studies continue to flourish so vigorously long after the initial flurry of interest stirred up by the sessions of Vatican Council II? The most obvious reason for this continued interest is that, once the subject had been opened up, it proved that conciliar studies offered a very fruitful field of inquiry for historians of the fifteenth century; modern work on conciliarism touches on many areas of medieval life and thought. But perhaps another stimulus to historical studies on alternative theories of church government can be found in more contemporary problems.

In recent decades the Catholic Church has lived in a state of quiet crisis in its old homelands—a sort of silent schism—though the crisis has grown more noisy since the revelations of the pedophile scandals. Many millions of Catholics have

enstein (Stuttgart: Klett, 1969), 175.

28. Ernst H. Kantorowitz, *The King's Two Bodies: A Study in Medieval Political Theology* (Princeton: Princeton University Press, 1959), 228.

29. The application of Aristotelian logic to Christian theology was often simply taken for granted. When Gerson gave a definition of *potestas ecclesiastica* he first wrote that this was a power "supernaturally conferred by Christ" and then went on to discuss the power in terms of Aristotle's four causes.

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become estranged from the church. All of Europe is now a *pays de mission.* And, among those who remain, many refuse to obey or simply ignore Vatican decrees that seem out of touch with the realities of their day-to-day lives. In *Foundations* I wrote that the constitutional reforms envisaged at the Council of Constance probably could not, in themselves, have brought about a much-needed regeneration in the life of the church. I think the same is true nowadays. But it is hard to see how any meaningful change can come about without some kind of structural reform.

In a speech to a group of American bishops in the last year of his life, Pope John Paul II referred to a "crisis of confidence in the church's leadership" and spoke of "a commitment to creating better structures of participation, consultation and shared responsibility." But then the pope added that this commitment should not be misunderstood as a concession to a secular "democratic" model of church government.[31] Earlier the pope had written eloquently about the value of historical study and declared that it would benefit the church to bring to light "the full truth about the 2000 years of her history."[32] And yet, in his later comment, the pope seemed insensitive to a whole area of the church's past. The underlying values of Western constitutional democracy are not alien to the tradition of the Catholic Church; in their medieval origins it is hard to understand the one without the other. They grew up side by side, constantly influencing one another.

Certainly today there can be no one-on-one imitation by the church of any particular modern constitution or indeed of any particular fifteenth-century conciliar proposal. But there are many ways in which Western ideals of government can be given institutional expression and, if the church could learn from them again, that would not be a "concession" to an alien system but a recovery of a part of the church's own tradition.

It may be helpful to recall here some words of Cardinal Koenig from the address of 1964 that I mentioned earlier. Looking to the future, the cardinal spoke of a "healthy and necessary decentralization" of church government and of general councils that would meet frequently "and not only once every hundred years." And, above all, he declared that in the modern age the church felt strong enough to "open itself up to the world," to encounter the world "neither defensively nor negatively but positively."[33] Perhaps that still remains a possibility for the future.

The conciliarists at Constance and the reformers at Vatican Council II had some rather similar objectives. They were Catholics; they were not trying to abol-

30. Blythe, *Ideal Government,* 235.
31. *The Pope Speaks* 50 (2005): 82.
32. Ibid. 49 (2004): 210.

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ish the papacy. But they wanted to diminish the power of the Roman Curia by establishing some form of conciliar or collegiate participation in the governance of the church. Neither council achieved its objective. The conciliar or collegiate ideal required a harmonious cooperation between the pope and a succession of councils or some sort of permanent senate of bishops. But the required cooperation was not forthcoming at Basel or in the aftermath of Vatican Council II. One might apply to medieval conciliarism or modern collegiality a thought that Chesterton expressed in another context: "They were not tried and found wanting; they were found difficult and not tried."

I once imagined an old conciliarist from the Council of Constance somehow translated to our modern world and wondered what he would think of the present state of the church.[34] I thought he might be a bit rueful about it. "You folk seem to have forgotten all about our Great Schism," he might say, "or imagine that such a thing can never happen to you again. And yet you are still in schism with the Greeks, not to mention all these Protestant churches that you have nowadays." And he would probably grumble on, "At *our* council the cardinal of Cambrai, Pierre d'Ailly, told us that we should not diminish the power of the pope too much, nor exaggerate it so as to enervate the power of the council, but you still can't seem to get the balance right after six hundred years." But then, I thought, our curmudgeonly old conciliarist might remember the underlying faith that animated all the reformers of his generation. The church is founded on a divine promise. It cannot be without the power to sustain its own life and correct its own failings. And so our old conciliarist might still find some ground for hope as he watched the church struggle its way into a third millennium. After all, we are only at the beginning of the new millennium. Who can know what the church will look like at the end of it?

33. Koenig, "Die Konzilsidee," 28–29.
34. I am borrowing some phrases here from the introduction to the 1998 edition of *Foundations.*

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